
Title 15 Uniform Development Code

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Division I. Land Use

Chapter 15.05

Special Flood Hazard Areas

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15.05.010 Title.

This chapter shall be known as the "flood hazard ordinance of 1986" of the City of Brownsville, Oregon. [Ord. 507 § 1, 1980; 1981 Compilation § 8-6.1.]

15.05.020 Statement of purpose.

The purpose of this chapter shall be to promote the public health, safety and welfare of Brownsville residents by establishing regulations to minimize the negative impacts resulting from the temporary inundation of portions of the City during periodic flooding by the Calapooia River; to minimize damage to personal and real property and public facilities by establishing standards for development in flood prone areas; and to prevent development which may result in more severe flooding within the City. [Ord. 507 § 2, 1980; 1981 Compilation § 8-6.2.]

15.05.030 Definitions.

"Base flood" means the flood having a one percent chance of being equal to or exceeded in any given year (often referred to as a 100-year flood).

"Building Official" means the person, or authorized representative, licensed by the state of Oregon and charged with the responsibility to administer and enforce the provisions of the State Building Code.

"Building permit" means a permit issued by the Building Official to allow the commencement or construction or siting of a building or structure subsequent to review for conformance with the Uniform Building Code. "Building permit" shall include a mobile home permit.

"City Engineer" means a fully qualified registered professional engineer designated by the City Council to fulfill the responsibility of the City Engineer as specified in this chapter.

"Development" means any manmade change to improved or unimproved land, including but not limited to construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Development permit" means a permit authorized at the discretion of the City Administrator to allow any development, as defined in this section, within a special flood hazard area.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas by the unusual and rapid accumulation of runoff of inland waters from any source.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both special flood hazard areas and the risk premium zones applicable to the City of Brownsville, Oregon.

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

"Flood plain" or "special flood hazard area" means any dry land area susceptible to temporary inundation by surface waters during the occurrence of a base flood.

"Floodproofing" means any combination of structural or nonstructural additions, changes or adjustments to structures or mobile homes, including the contents thereof, which is intended to reduce or eliminate flood damage to property, public facilities, transportation facilities, structures, mobile homes, or their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof. A floor used solely for storage purposes is not a habitable floor.

"Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, including a mobile home.

"Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurs. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building is commenced, whether or not the alteration affects the external dimensions of that structure. "Substantial improvement" does not

include either (1) any project for improvements of the structure to comply with existing state or local health, sanitary or safety code specifications which are necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places, in the Statewide Inventory of Historic Sites and Buildings for Linn County, or in the Brownsville Historic Inventory.

"Variance" means a permit reviewed by the Planning Commission and authorized by the City Council pursuant to BMC [15.05.090](#) to allow a means of alleviating such practical difficulties or unnecessary enforcement of the regulations of this chapter. A variance is not intended to subvert the intent of this chapter. [Ord. 507 § 3, 1980; 1981 Compilation § 8-6.3.]

15.05.040 Basis for establishing special flood hazard areas.

The areas of special flood hazard identified by the Federal Insurance Administration in the scientific and engineering report entitled "The Flood Insurance Study for the City of Brownsville" dated August 17, 1981, with accompanying flood insurance maps, is hereby adopted by reference and declared to be part of this chapter. The flood insurance study is on file at City Hall, 255 Main Street, Brownsville, Oregon. [Ord. 513 § 1, 1981; Ord. 507 § 4, 1980; 1981 Compilation § 8-6.4.]

15.05.050 Duties and responsibilities of the City Administrator.

The Brownsville City Administrator is hereby appointed to administer and implement the provisions of this chapter, and shall be charged with the following duties and responsibilities:

A. The City Administrator shall oversee the activities of the City Engineer and Building Official granted pursuant to the provisions of this chapter, and shall maintain a record of such activities.

B. The City Administrator shall periodically report on developmental activity in the special flood hazard area to the Brownsville City Council and Planning Commission.

C. The City Administrator shall review all applications for development permits filed pursuant to BMC [15.05.080](#), and shall determine if the requirements of this chapter have been satisfied, and if all applicable federal, state, county and local permits have been obtained. If the provisions of this chapter and all other applicable governmental regulations have been satisfied, the City Administrator shall be authorized to issue development permits.

D. The City Administrator shall interpret the exact location of the boundaries of the Flood Insurance Rate Maps. A person contesting the Administrator's determination may appeal pursuant to BMC [15.05.100](#); all such appeals shall be granted consistent with the standards of Section 1910.6 of the rules and regulations of the National Flood Insurance Program (24 CFR 1909, etc.).

E. When base flood elevation data has not been provided in accordance with BMC [15.05.040](#), the City Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source as the basis for implementing provisions of this chapter.

F. The City Administrator shall obtain from the developer, and record, the actual elevation of the lowest habitable floor of all new or substantially improved structures, and whether or not the structure contains a basement. Such records shall be available for public inspection in the Brownsville City Hall during regular office hours.

G. The City Administrator shall notify the Federal Insurance Administration and all affected federal, state and county agencies prior to any alteration or relocation of a watercourse, and shall require that the flood carrying capacity of such watercourse not be diminished. [Ord. 507 § 5, 1980; 1981 Compilation § 8-6.5.]

15.05.060 Duties and responsibilities of the City Engineer.

The Brownsville City Engineer shall be charged with the following duties and responsibilities:

A. The City Engineer shall assist the City Administrator in completion of the duties and responsibilities assigned in BMC [15.05.050](#), and in particular shall assist in the review of applications for development permits, the interpretation of the FIRM boundaries, and in researching for flood elevation data not available pursuant to BMC [15.05.040](#).

B. The City Engineer shall review and report to the Planning Commission on all variances requested pursuant to BMC [15.05.090](#), and all appeals of an administrative determination filed pursuant to BMC [15.05.100](#), and shall assess and report the degree to which such applications comply with the intent and provisions of this chapter.

C. The City Engineer shall review all Comprehensive Plan and/or zone amendments, conditional use, subdivision, partition and variance requests proposed to be located within a special flood hazard area, and shall report to the Brownsville Planning Commission concerning the advisability of modifying or changing the land use designation given the severity of the flood hazard.

D. In the event that development is proposed within the floodway, the City Engineer shall review the type and scale of development, the engineering characteristics, and the registered engineer's or hydrologist's report to ascertain if such development would result in restricting the flow of flood waters. If, in the opinion of the City Engineer, the proposed development complies with the floodway standards of BMC [15.05.080](#), the City Engineer shall approve the proposed development. If, in the opinion of the City Engineer, the proposed development would restrict the flow of flood waters in the floodway, or would violate other provisions of BMC [15.05.080](#), the City Engineer shall deny the proposed development. [Ord. 507 § 6, 1980; 1981 Compilation § 8-6.6.]

15.05.070 Duties and responsibilities of the Building Official.

The Building Official is hereby authorized to issue building permits for construction in a special flood hazard area only if the applicant has obtained a development permit from the Brownsville City Administrator and/or City Engineer, issued pursuant to the provisions of BMC [15.05.080](#). [Ord. 507 § 7, 1980; 1981 Compilation § 8-6.7.]

15.05.080 Criteria for issuance of development permits.

A. A development permit issued by the Brownsville City Administrator shall be obtained

prior to issuance of any federal, state, county or local permit regulating development as defined in BMC [15.05.030](#). Failure of the applicant to obtain a development permit prior to the start of construction shall stay any permits issued by any federal, state, county or local government entity.

B. The City Administrator, pursuant to BMC [15.05.050](#), shall review all applications for a development permit, and shall require that the below cited criteria applicable to the proposed use be satisfied prior to issuance of such permit.

1. Residential Construction.

a. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one foot above base flood level.

b. Where elevation data is not available, applications for building permits shall be reviewed to assure that the proposed construction will be reasonably safe from flooding. The test of reasonability is a local judgement using such information as historical data, high water marks, photographs of past flooding, etc.

C. Proposed building sites shall be reasonably safe from flooding. If a proposed building site lies within a special flood hazard area, all new construction and substantial improvement shall be:

1. Designed and adequately anchored to prevent flotation, collapse or lateral movement of the structure;
2. Constructed with materials and utility equipment resistant to flood damage; and
3. Constructed using methods and practices that minimize flood damage.

D. An alternative method of anchoring designed to withstand a wind force of 90 miles per hour or greater and certified adequate by the City Engineer may be substituted for subsections (B) and (C)(1) of this section.

E. In any proposed residential construction, the flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

1. Mobile Home Siting and Mobile Home Parks.

a. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

- i. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
- ii. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
- iii. Each component of the anchoring system be capable of carrying a force of 4,800 pounds; and
- iv. Any additions to the mobile home be similarly anchored.

b. For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before repair, reconstruction or

improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:

- i. Stands or lots are elevated on compacted fill or pilings so that the lowest floor of the mobile home will be at or above the base flood level;
- ii. Adequate surface drainage and access for a hauler are provided; and
- iii. In the instance of elevation on pilings, that:
 - (A) Lots are large enough to permit steps;
 - (B) Piling foundations are placed in stable soil no more than 10 feet apart; and
 - (C) Reinforcement is provided for pilings more than six feet above the ground level.
- c. No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.

2. Nonresidential Construction.

a. All new construction and substantial improvement of nonresidential structures, including commercial, industrial and public structures, shall be anchored to a foundation to prevent movement during a flood, and have the lowest habitable floor (including basement) either elevated a minimum of one foot above the base flood level, or shall satisfy the below cited criteria:

- i. The structure shall be floodproofed such that the portion of the structure below the base flood level is watertight, with walls substantially impermeable to the passage of water;
- ii. The structural components shall be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- iii. Certification by a registered hydrologist or engineer shall be filed verifying that the standards of this subsection have been satisfied, and shall be reviewed and accepted only upon authorization of the City Engineer.

b. Materials, supplies, and equipment which are stored on any site within a special flood hazard area shall either be stored within an enclosed building or shall be located or anchored in such a way that their movement will not represent a potential obstruction to the natural flow of flood waters or a potential danger to the public safety.

3. Subdivision and Partition Proposals. All subdivision and partition proposals shall be consistent with the need to minimize flood damage, and shall incorporate the following design requirements into the proposed plat:

- a. All subdivision and partition proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- b. All subdivision and partition proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- c. Base flood elevation data shall be provided for subdivision and partition proposals.

4. Utilities Construction.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters 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 system into flood waters; and

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5. Street Construction. All new streets or improvements to existing streets located in a special flood hazard area shall be so constructed as to not be subject to inundation, or be rendered impassable to either private or emergency vehicles during periodic flooding.

6. Floodway Development. Located within areas of special flood hazard established in BMC [15.05.040](#) 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:

a. Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited unless certification by a registered hydrologist is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge, and will not cause flooding in areas that have not been flooded before.

b. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter; and

c. The placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision, is prohibited. [Ord. 507 § 8, 1980; 1981 Compilation § 8-6.8.]

15.05.090 Variance provisions.

Application for a variance to provisions of this chapter shall be filed with the City Administrator, and shall be reviewed by the Planning Commission with the assistance of the City Engineer.

A. When reviewing an application for a variance to the provisions of this chapter, the Planning Commission shall consider the following factors in relation to the particular request:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;
9. The safety of access to the property in times of flood for private and emergency vehicles;
10. 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
11. 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.

B. A variance may be granted by the Planning Commission only upon finding:

1. That the variance is the minimum necessary, considering the flood hazard, to afford relief; and
2. That failure to grant the request will result in an unnecessary hardship; and
3. That granting of the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, or create a nuisance or conflict with state or local laws or ordinances; and
4. That a public need for the proposed development presently exists; and
5. That the granting of a variance will not jeopardize the status of structures listed on the National Register of Historic Places, Oregon Statewide Inventory of Historic Buildings and Sites, or Brownsville Historic Inventory; and
6. That the granting of a variance request for construction in the floodway will not increase the elevation of the base flood.

C. The Planning Commission may place any conditions or stipulations on the granting of a variance request as are deemed necessary to further the purposes of this chapter.

D. Upon the Planning Commission authorization approving a variance, the City Administrator shall be authorized to approve the issuance of a building permit by the Building Official. A copy of the approval shall be maintained in the records of the City of Brownsville, and a report on the approval shall be forwarded to the Federal Insurance Administration. [Ord. 507 § 9, 1980; 1981 Compilation § 8-6.9.]

15.05.100 Appeals provisions.

A. The Brownsville Planning Commission shall be designated the authorized body to review all appeals filed by a property owner or affected citizen in reference to the following:

1. A determination by the City Administrator as to the exact location of the boundaries of the Flood Insurance Rate Maps or other base flood elevation data;
2. A determination by the City Administrator not to issue a development permit pursuant to the provisions of BMC [15.05.080](#);
3. Any other determination by the City Administrator as to the provisions of this chapter.

B. The Planning Commission may approve an appeal of a determination made by the City Administrator only if the following findings are made:

1. That the City Administrator has erred in the interpretation of the Flood Insurance Rate Map boundaries or in the interpretation of the provisions of this chapter; or
2. That the applicant has submitted engineering, hydrological or other studies which substantiate that the elevations found on the Flood Insurance Rate Maps are in error.

C. A determination of the Planning Commission may be appealed by a property owner or affected citizen to the City Council within 10 days of the date of decision. In reviewing such an application, the City Council must apply the criteria in subsection (B) of this section to approve the appeals. [Ord. 507 § 11, 1980; 1981 Compilation § 8-6.10.]

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Chapter 15.10

Land Fill Regulations

Sections:

[15.10.010](#) Definitions.

[15.10.020](#) Regulations.

[15.10.030](#) Penalties.

15.10.010 Definitions.

"Inorganic material" means rocks, soil, incompressible metals not including the following: hollow containers, plastics, rubber tires, soil containing more than 10 percent by weight of sawdust, chips, bark, etc., wood pieces more than four inches in diameter by one foot in length. Wood of the above size may not exceed 12 pieces per cubic yard.

"Land fill" means any transfer of inorganic material, soil and rocks from one area to another for the purpose of changing the elevation of both or either areas.

"Natural drainage channels" means swales, hollows, and depressions occurring naturally that provide drainage from one area to another or to creeks or rivers. [Ord. 441 § 1, 1974; 1981 Compilation § 8-2.1.]

15.10.020 Regulations.

All land fills exceeding 100 cubic yards or any land fill materially changing, filling, or altering any natural or existing ditch or natural drainage channels shall be subject to the following regulations:

A. Prior approval of the Planning Commission and City Council shall be required before any land fill operation may commence.

B. Such Council approval shall be subject to an impact study provided by the land filler and such study to be made by a registered engineer or other qualified person acceptable to the Council.

C. Results of such study shall be reported to the Council showing at least the following standards:

1. The fill material is of such nature that it will be self-compacting within a period of three years.
2. The fill material does not contain materials prohibited by this chapter or applicable standards of the state of Oregon.
3. The fill will not pose a threat to any other property within a one-mile radius because of changed drainage patterns.
4. Where the land fill is being built as the ultimate development of an area, such fill will be subject to any conditions that the Planning Commission may apply, especially

regarding final appearance and the aesthetics of the fill.

5. In all land fills requirements of the state of Oregon, where more stringent than the requirements of this chapter, shall be fulfilled. [Ord. 441 § 2, 1974; 1981 Compilation § 8-2.2.]

15.10.030 Penalties.

Violations of any part of this chapter shall be subject to the following procedure:

A. Violator shall be notified of his violations, be granted a period of 10 days to remedy violations and comply with this chapter.

B. Failure to comply after 10 days grace period will result in a fine of \$25.00 per day as long as the violation exists and/or 10 days in the County Jail. [Ord. 441 § 3, 1974; 1981 Compilation § 8-2.3.]



Chapter 15.12 Land Use Claims

Sections:

- [15.12.010](#) Purpose.
- [15.12.020](#) Definitions.
- [15.12.030](#) Applicability and exceptions.
- [15.12.040](#) Scope of claims.
- [15.12.050](#) Content of written claim.
- [15.12.060](#) Claim processing fees.
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- [15.12.080](#) Conditions of approval – Revocation of decision.
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- [15.12.100](#) Attorney's fees.
- [15.12.110](#) Availability of funds to pay claims.
- [15.12.120](#) Private right of action.
- [15.12.130](#) Applicable state law.

15.12.010 Purpose.

The purpose of this chapter is to implement ORS chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and to establish a procedure to process demands for compensation (claims) quickly, openly, thoroughly, and consistent with the law; to enable present real property owners (claimants) making claims to have an adequate and fair opportunity to present their claims to the Brownsville City Council (Council) to provide the Council with the factual and analytical information necessary to adequately and fairly consider claims; to ascertain City liability for compensation apart from state of Oregon (state) and Linn County liability; to take appropriate action under the alternatives provided by law; to preserve and protect limited public funds; to preserve and protect the interests of the community by providing for public input into the process of reviewing claims; and, to establish a record of decisions capable of withstanding legal review. [Ord. 690 § 1, 2004.]

15.12.020 Definitions.

For purposes of this chapter the following definitions shall apply:

"Appraisal" means a written appraisal concluding to fair market value of real property prepared by an appraiser licensed by the Appraiser Certification and Licensure Board

of the State of Oregon pursuant to ORS chapter 674 and meeting the appraisal requirements set forth in Uniform Standards of Professional Appraisal Practice (USPAP). In the case of commercial or industrial property, the term "appraisal" additionally means a written appraisal concluding to fair market value prepared by an appraiser holding an MAI qualification (Member Appraisal Institute), as demonstrated by written certificate.

"Ballot Measure 37" means Ballot Measure 37, adopted by the voters of the state of Oregon on November 2, 2004, effective December 2, 2004, as an addition to ORS chapter 197.

"City Administrator" means the City Administrator of the City of Brownsville or his or her designee.

"Claim" means the "written demand for compensation" required to be made by an "owner" of "real property" under Ballot Measure 37. Demands shall not be considered made under Ballot Measure 37 until the City accepts the demand as complete, i.e., meeting the requirements for making a demand under this chapter.

"Claimant" means present owner(s) of real property. See definition for "owner."

"Demand" means "claim" and "written demand for compensation" as defined herein.

"Exempt land use regulation" means those land use regulations which are specifically listed as exempt from compensation or waiver requirements as set forth in Ballot Measure 37 and this chapter.

"Family member" means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

"Land use" means a physical improvement on real property related to use of the land or an activity which is conducted on real property (examples: residential use, commercial use, industrial use, community service use, farm use or forest use). A further division of real property is not a land use.

"Land use regulation" includes:

1. Any statute regulating the use of land or any interest therein;
2. Administrative rules and goals of the Land Conservation and Development Commission;
3. The City of Brownsville's Comprehensive Plan, zoning code and land division code.

"Owner" means the present owner(s) of real property, or any interest therein, which is the subject of a claim. The owner is a person who is the sole fee simple owner of the real property or all joint owners whose interests add up to a fee simple interest in property, including all persons who represent all recorded interests in property, such as co-owners, holders of less than fee simple interests, leasehold owners, and security interest holders.

"Property" means private real property, or interest therein, as described in a deed or other legal instrument, which existed on the date of the claim.

"Reduction in value" means the difference in the fair market value, if any, of the

property with certain land use regulations enforced or applied; and the fair market value of the subject property without those land use regulations enforced or applied to the property.

"Restricts the use" means a land use regulation that prohibits a land use or limits the manner in which it can be established on the property.

"Valid claim" means a claim submitted by the owner of real property that is subject to a land use regulation enacted and/or enforced by the City of Brownsville that restricts the use of the private real property in a manner that reduces the fair market value of the real property and meets all the requirements of this chapter.

"Written demand for compensation" means "claim" or "demand" as defined herein. [Ord. 690 § 2, 2004.]

15.12.030 Applicability and exceptions.

A. An owner of private real property located within the City of Brownsville may file a claim under this chapter if the City of Brownsville enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of Ballot Measure 37, which amended ORS chapter 197, and it restricts the use of private real property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

B. This chapter, in compliance with ORS chapter 197, as amended by Ballot Measure 37, does not allow claims for certain categories of regulations which may reduce the fair market value of the property, or any interest therein. The categories of regulations that are exempt from claims for compensation include the following:

1. A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law and the criminal laws of Oregon, Linn County or the City of Brownsville;
2. A regulation restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
3. A regulation required to comply with federal law;
4. A regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or
5. A regulation enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first. [Ord. 690 § 3, 2004.]

15.12.040 Scope of claims.

A. An owner of private real property located in the City of Brownsville who asserts a right to compensation under Ballot Measure 37 shall make a claim for compensation as provided in this chapter;

B. If an owner wishes to assert that more than one regulation restricts use of the property, and has the effect of reducing the fair market value of the property, all claims regarding that property must be filed simultaneously and considered by the City simultaneously;

- C. Separate claims must be submitted for each parcel of real property;
- D. Separate claims must be submitted for each noncontiguous parcel of real property for which it is claimed that one or more land use regulation(s) restrict the use of the property and which have the effect of reducing the fair market value of the property. Claims for contiguous parcels that were acquired at the same time must be submitted at the same time as part of a single claim. [Ord. 690 § 4, 2004.]

15.12.050 Content of written claim.

A. A claim pursuant to this chapter shall only be submitted to and accepted for review by the City Administrator, or the City Administrator's designee, and shall include the following information:

1. A description of the private real property for which the owner is claiming compensation, including the street address and either a legal description or a County Tax Assessor's description of the property, specifically identifying whether the claim relates to real property other than land or to a portion of the ownership less than fee simple absolute;
2. The name, address, and telephone number of all owners and anyone with an interest in the property, including lien holders, trustees, renters, and lessees, together with a description of the ownership interest of each;
3. The date the claimant acquired ownership of or an interest in the private real property and a copy of the document which provides proof of first ownership;
4. A title report, including title history, current within 30 days prior to the claim date, verifying the ownership or interests in the private real property;
5. If the claim is based upon the date a family member acquired the property, then documentation sufficient to establish the familial relationship along with a chain of title showing continual ownership;
6. Copies of any covenants, conditions and restrictions (CCRs), leases, or other encumbrances applicable to the real property;
7. Identification of the specific land use regulation which restricts the owner's use of the real property, and for which the owner is claiming compensation;
8. A statement describing the manner in which, and the extent to which, the regulation restricts the use of the private real property and has the effect of reducing the fair market value of the property for which the owner is claiming compensation;
9. The amount of the claim, based upon the alleged reduction in value, supported by an appraisal of the private real property for which the owner is asserting a claim. If the value of the claim exceeds \$10,000, then copies of two appraisals, prepared by different appraisers, must be included;
10. A statement of the relief sought by the owner, such as a monetary payment in a specific amount; waiver of the applicable regulation; or modification of the applicable regulation. If a modification of the regulation is sought, then a description of the desired modification must be included;
11. Payment of any required claim processing fee; and
12. The signature of the claimant.

B. The City Administrator shall conduct a completeness review within 30 days after

submittal of the claim and shall advise the owner, in writing, of any material remaining to be submitted. Once all of the required materials for a complete claim are received, the City Administrator shall declare the claim complete and send the notice required by BMC [15.12.070](#)(A) and (B).

C. Commencement of the 180-day period allowed for local government claim procedures prior to any cause of action being authorized for the owner in circuit court as specified in Ballot Measure 37 starts on the date the City Administrator deems the claim complete and accepts it for filing.

D. Notwithstanding a claimant's failure to provide all of the information required by subsection (A) of this section, the City may review and act on a claim. [Ord. 690 § 5, 2004.]

15.12.060 Claim processing fees.

A. The claim processing fees shall cover the actual administrative costs to the City of Brownsville for processing a claim. An owner shall pay a deposit of \$1,000 at the time they submit a claim to the City Administrator. Following final action by the City on the claim, the City Administrator shall provide an accounting of the actual administrative costs, including staff and legal costs, that the City incurred in reviewing and acting on the claim. The City of Brownsville shall refund any excess funds from the retainer to the owner within 30 days after the final decision, or shall bill for additional costs not covered by the retainer.

B. A billing for the amount of the unpaid administrative costs for processing the claim shall be forwarded by certified or registered mail, return receipt requested, to the owner. Payment shall be made to the City Administrator within 30 days from the billing date set out on the bill.

C. If the property owner does not pay the amount due within 30 days of the billing date, the City of Brownsville may pursue collection, including filing a lien on the property. The lien is perfected by filing it with the County Recorder's Office in the deed records indicating the amount of the lien, the basis for the lien and the property to which the lien attaches.

D. The lien provided for in subsection (C) of this section shall be given priority over all liens except those for taxes and assessments and shall include interest at one-half of one percent per month accruing from the date the billing is sent to the owner of the property.

E. The lien provided for in subsection (C) of this section shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.

F. No permits will be approved on properties with a lien for unpaid processing fees required by this section.

G. The City of Brownsville shall collect reasonable attorney's fees and costs for collection of the debt, which may be made part of the lien and the debt. [Ord. 690 § 6, 2004.]

15.12.070 Claim review process.

A. After a claim for compensation is declared complete pursuant to BMC [15.12.050](#), the City Administrator shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the City Administrator may designate.

B. The City Administrator's notice under subsection (A) of this section shall:

1. Indicate the date that the claim was filed;
2. State the basis of the claim, the amount of the compensation sought and the land use regulation that the owner asserts gives rise to a claim;
3. Identify the property by the street address or other easily understood geographical reference;
4. State that persons noticed may provide written comments on the claim, and provide the date written comments are due;
5. Indicate a timeframe within which the City Council will take action on the claim and identify how interested persons can learn of the specific date the Council will meet on the matter, once a meeting date is set;
6. Provide the name and phone number of a City representative who can be contacted for additional information; and
7. State that a copy of the claim and the supporting documents submitted by the owner are available for inspection at no cost, or that copies will be provided at reasonable cost.

C. Written comments regarding a demand may be submitted to the City Administrator by any interested person. Comments must be received by the City Administrator within 14 days from the date of the notice required under subsections (A) and (B) of this section. The owner shall have an additional seven days after the deadline set out above to respond to any written comments received by the City Administrator. It is the duty of the owner to determine if comments have been received by the City Administrator.

D. The City Administrator shall prepare a staff report for the Council within 30 days after the comment period has ended. The report shall apply the standards of ORS chapter 197 to the claim and shall include options for Council action.

E. After the City Administrator has completed a draft staff report, the City Administrator shall send a copy of it to the City Attorney's Office for review. The City Attorney's Office will have 30 days for review.

F. After the City Administrator receives the comments from the City Attorney's Office, the City Administrator will finalize the staff report and make it available to the public at least 10 days prior to the Council meeting.

G. The City Council shall conduct a public hearing before taking final action on the claim. The procedures for the hearing must include, but are not limited to, staff presentation and public testimony, followed by deliberation and a decision by the City Council.

H. The City Council's options for its decision include, but are not limited to, the following:

1. Find the claim invalid and deny the claim based on one or more of the following findings:
 - a. The land use regulation does not restrict the use of the private real property;
 - b. The fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;
 - c. The demand was not timely filed;
 - d. The owner failed to comply with the requirements for making a demand as set forth in this chapter;
 - e. The owner is not the present property owner, or the property was not owned by a family member or the claimant was not the property owner at the time the land use regulation was enacted, enforced or applied;
 - f. The land use regulation is an exempt regulation as defined in Ballot Measure 37;
 - g. The land use regulation in question is not an enactment of the City;
 - h. The City has not taken final action to enact or enforce the land use regulation to the property;
 - i. The owner is not entitled to compensation under Ballot Measure 37, passed November 2, 2004, for a reason other than those provided herein;
2. Find the claim valid and award compensation, either in the amount requested, or in some other amount supported by the evidence in the record, subject to the availability and appropriation of funds for that purpose;
3. Find the claim valid and modify the regulation which restricts the use beyond those restrictions in place on the property at the time the owner acquired the property; or
4. Find the claim valid and waive the regulation which restricts the use beyond those restrictions in place on the property at the time the owner acquired the property.
- I. If the City Council modifies or waives the challenged land use regulation in response to a claim by owner, the modification or waiver is valid only as to the owner during owner's ownership of the property for those regulations listed in the claim which were found by the Council to be valid; all other current regulations remain in effect. The City Council may, at its discretion, reinstate any or all of the land use regulations in effect at the time the owner acquired the property. A City Council waiver is not a waiver of any state law or Linn County provision.
- J. The final decision on a claim shall be made by the City Council. After review the City Council shall, under the standards of Ballot Measure 37, determine whether compensation is granted, the amount of compensation, if any, whether any exceptions to the requirement for compensation apply or whether the regulation should be modified, removed or deemed not to apply to the property. A copy of the City Council's decision shall be sent by mail to the owner and to each individual or entity that participated in the City Administrator or City Council process, provided a mailing address was provided to the City Administrator as part of the claim process.
- K. Waiver of a City land use regulation does not constitute a waiver of any corresponding Linn County or state statutes.
- L. A decision by the City Council to waive or modify a land use regulation shall be personal to the owner and shall automatically become invalid and void upon transfer of any ownership interest in the subject property. Upon transfer of any ownership interest

in the subject property, any use of the property that is not consistent with regulations in effect at the time of transfer shall be deemed to be a nonconforming use and all state laws and City and Linn County code provisions relating to nonconforming uses shall be applicable.

M. If the Board issues an order finding that an owner has a valid claim, the owner shall record a copy of the decision in the Recorder's Office of Linn County. The decision must include a legal description of the subject property.

N. This chapter shall be interpreted in a manner consistent with Ballot Measure 37, passed November 2, 2004, and other implementing statutes or regulations and as interpreted by Oregon appellate courts. [Ord. 690 § 7, 2004.]

15.12.080 Conditions of approval – Revocation of decision.

A. The City Council may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action taken under this chapter.

B. Failure to comply with any condition of approval is grounds for revocation of the approval of the claim, grounds for recovering any compensation paid and grounds for revocation of any other action taken under this section.

C. In the event the owner, or the owner's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the conditions of approval, the City Administrator may institute a revocation or modification proceeding before the City Council under the same process for City Council review of a claim under this chapter. [Ord. 690 § 8, 2004.]

15.12.090 Ex parte contacts – Conflict of interest and bias.

The following rules govern any challenges to City Council participation in the review or hearings regarding compensation claims:

A. Any factual information obtained by a member of the Council outside the information provided by the City Administrator or City staff, or outside of the formal written comments process or hearing will be deemed an ex parte contact. A member of the City Council that has obtained any material, factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between City staff and a member of the Council.

B. Whenever a member of the Council, or any member of their immediate family or household, has a financial interest in the outcome of a particular demand, that member of the City Council shall not participate in the deliberation or decision on that application.

C. All decisions on demands must be fair, impartial and based on the applicable review standards and the evidence in the record. Any member of the City Council who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter. [Ord. 690 § 9, 2004.]

15.12.100 Attorney's fees.

If a demand under Ballot Measure 37 and this chapter is denied or not fully paid within 180 days of the date of filing a completed demand, the owner's reasonable attorney's fees and expenses necessary to collect compensation will be added as additional compensation, provided compensation is awarded to the owner. If such demand is denied, not fully paid, or other action taken under Ballot Measure 37, within 180 days of the date of filing a completed demand, and the owner commences suit or action to collect compensation, if the City of Brownsville is the prevailing party in such action, then the City of Brownsville shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees. [Ord. 690 § 10, 2004.]

15.12.110 Availability of funds to pay claims.

Compensation can only be paid based on the availability and appropriation of funds for this purpose. [Ord. 690 § 11, 2004.]

15.12.120 Private right of action.

If the City Council's approval of a claim by removing or modifying a land use regulation causes a reduction in value of other property located in the City of Brownsville, the affected party shall have a cause of action in state circuit court to recover from the claimant the amount of the reduction, and shall also be entitled to attorney's fees. [Ord. 690 § 13, 2004.]

15.12.130 Applicable state law.

For all demands filed, the applicable state laws are those portions of ORS chapter 197 added or made a part of said chapter by Ballot Measure 37, passed on November 2, 2004, and/or as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature, Oregon State Administrative Agencies or this chapter. Any demand that has not been processed completely under this section shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and this section shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level. [Ord. 690 § 14, 2004.]

Division II. Subdivisions

Chapter 15.15 General Provisions

Sections:

- [15.15.000](#) Title.
- [15.15.010](#) Purpose.
- [15.15.020](#) Definitions.
- [15.15.030](#) Scope of regulations.
- [15.15.040](#) Compliance.
- [15.15.050](#) Approval required before creating street to partition land.
- [15.15.060](#) Sales of lots prohibited until approval obtained.
- [15.15.070](#) Exemption from division provisions.

15.15.000 Title.

This division shall be known as "the subdivision and partitioning code of the City of Brownsville, Oregon." [Ord. 509 § 1.000, 1981; 1981 Compilation § 8-7:1.000.]

15.15.010 Purpose.

The purpose of this division is to establish standards and procedures for the subdivision and partitioning of land within the City of Brownsville. These regulations are necessary in order to provide uniform procedures and standards for the subdivision of land; to provide for the proper width and location of streets; to coordinate proposed development with the Comprehensive Plan for the City; to provide for utilities and other public facilities; to avoid undue congestion of population; to assure adequate sanitation, drainage and water supply; to provide for the protection, conservation and proper use of land; and, in general, to protect the public health, safety and welfare. Standards and procedures for the subdivision of land are intended to comply with the provisions of ORS chapter 92. [Ord. 509 § 1.010, 1981; 1981 Compilation § 8-7:1.010.]

15.15.020 Definitions.

As used in this division, the following words and phrases shall mean:

"Building line" means a line on a plat or map indicating the limit beyond which buildings or other structures may not be erected.

"Buffer" means an area of natural or planted vegetation which is dense enough to

screen a particular use from view.

"City" means the City of Brownsville, Oregon.

"City Engineer" means a fully qualified registered professional engineer designated by the City Council to fulfill the responsibilities of a City Engineer as specified by this chapter.

"Easement" means a grant of the right to use a strip of land for specific purposes.

"Lot" means a unit of land that is created by a subdivision of land.

1. "Corner lot" means a lot at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.

2. "Through lot" means a lot having frontage on two parallel or approximately parallel streets other than alleys.

3. "Flag lot" means a lot which is connected to a street by a narrow strip of land which is used as access to the major portion of the lot.

"Map" means a final diagram, drawing or other writing concerning a parcel of land.

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

"Partition" means either an act to divide land into two or three parcels in 12 calendar months, or an area or tract of land divided by such an act.

"Partition, major" means a partition which includes the creation of a street.

"Partition, minor" means a partition that does not include the creation of a street.

"Partition land" means to divide an area or tract of land into two or three parcels within 12 consecutive months 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; divisions of land made pursuant to a court order, including but not limited to court orders in proceedings involving testate or intestate succession; and 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 code.

"Pedestrian way" means a right-of-way for pedestrian and nonmotorized traffic.

"Person" means every 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.

"Planning Commission" means the Planning Commission of the City of Brownsville.

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

"Public utility" means any City-owned or franchised utility.

"Right-of-way" means the area between boundary lines of a street or other easement.

"Roadway" means the portion or portions of a street right-of-way developed for vehicular traffic.

"Screen" means a fence, wall, berm, hedge, tree row or other dense structure intended to perform a buffering effect in a limited space.

"Sidewalk" means a pedestrian walkway with permanent surfacing.

"Street" means the entire right-of-way of a public or private way that is created to provide ingress or egress for persons to two or more lots, parcels, areas, or tracts of land, and including the terms "road," "highway," "avenue," or similar designations.

1. "Alley" means a street which affords only a secondary means of access to property.

2. "Arterial" means a street intended to carry traffic to and from major traffic generators; to carry traffic to and from major residential sections of the community; to carry traffic to and from major outlying rural areas; to supplement the state highway system; to be used primarily for through traffic; and to provide for longer trips at higher speeds than other elements of the local street system.

3. "Collector" means a street intended to carry traffic between minor streets and the arterial system, to function as primary traffic carriers within a neighborhood; and to provide for intermediate trip lengths with moderate-to-low traffic volumes.

4. "Cul-de-sac" (dead-end street) means a short street with one end open to traffic and the other terminated by a vehicle turn-around.

5. "Half-street" means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

6. "Marginal access street" means a local street parallel and adjacent to a highway or arterial.

7. "Local street" means a street intended to provide access to abutting properties and which provides for short trip length with very low traffic volume.

"Subdivide land" means to divide an area or tract of land into four or more lots within 12 consecutive months when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

"Subdivision" means either an act of subdividing land, or an area or tract of land subdivided as defined in this section. [Ord. 509 § 1.020, 1981; 1981 Compilation § 8-7:1.020.]

15.15.030 Scope of regulations.

Subdivision plats and partition maps shall be approved by the City in accordance with these regulations. A person desiring to subdivide or partition land shall submit tentative plans and final documents for approval as provided for in this chapter. Subdivisions and partitions shall also conform with the provisions of ORS chapter 92 and the Comprehensive Plan for the City, and shall result in lots and parcels complying with the zoning code and other requirements of the City in effect at the time of subdivision or partition. [Ord. 509 § 2.010, 1981; 1981 Compilation § 8-7:2.010.]

15.15.040 Compliance.

No person shall subdivide or partition land except in accordance with this chapter and its amendments in accordance with the rules and regulations promulgated by the City Council and the Planning Commission in administering this division. [Ord. 509 § 2.020, 1981; 1981 Compilation § 8-7:2.020.]

15.15.050 Approval required before creating street to partition land.

No person shall create a street for the purpose of partitioning an area or tract of land without the approval of the Planning Commission as provided in this division. [Ord. 509 § 2.030, 1981; 1981 Compilation § 8-7:2.030.]

15.15.060 Sales of lots prohibited until approval obtained.

A. No person shall sell any lot in a subdivision until the final plat for the subdivision has been approved by the City and recorded.

B. No person shall sell any parcel in a major partition until that partition has been approved by the City. [Ord. 509 § 2.040, 1981; 1981 Compilation § 8-7:2.040.]

15.15.070 Exemption from division provisions.

Redivisions of lots in areas which were platted at the time of adoption of the ordinance codified in this division are exempt from the provisions of this chapter; provided, that additional lots are not created and that no lot shall be reduced in area or dimension below the standards of the Brownsville zoning code. [Ord. 509 § 2.050, 1981; 1981 Compilation § 8-7:2.050.]



Chapter 15.20

Plat Approval Procedure

Sections:

- [15.20.010](#) Background information.
- [15.20.020](#) Submission of tentative plan for proposed subdivision.
- [15.20.030](#) Filing fees.
- [15.20.040](#) Preliminary review of proposal.
- [15.20.050](#) Approval of the tentative plan for the proposed subdivision.
- [15.20.060](#) Submission of final plat.
- [15.20.070](#) Review and approval of final plat.
- [15.20.080](#) Time limit for development of a recorded final plat.

15.20.010 Background information.

The City shall make available to a subdivider, or agents, such background information as may be on file relating to the general area of a proposed plat and to the relationship of the Comprehensive Plan, the zoning code, and other City plans, policies or regulations to this area. Subdividers shall also be advised of the design and improvement standards and other requirements established by the City in connection with the review and approval of plats. [Ord. 509 § 3.010, 1981; 1981 Compilation § 8-7:3.010.]

15.20.020 Submission of tentative plan for proposed subdivision.

Subdividers shall prepare a tentative plan of the proposed subdivision and other supplementary material as may be required in BMC [15.25.010](#) through [15.25.050](#) to indicate the general program and objectives of the project. At least 15 copies of the tentative plan shall be submitted at least 20 working days prior to the Planning Commission hearing at which consideration of the plan is desired. The City shall not accept the tentative plan for review or hearing until it has been determined by the City Engineer that all data required under BMC [15.25.010](#) through [15.25.050](#) has been made available. [Ord. 509 § 3.020, 1981; 1981 Compilation § 8-7:3.020.]

15.20.030 Filing fees.

At the time of the submission of the tentative plan, the City Recorder shall collect fees for subdivision review and inspection. The fees shall be set in accordance with a fee schedule set by resolution of the City Council after recommendation by the Planning

Commission. All fees which are paid shall be nonrefundable. [Ord. 509 § 3.030, 1981; 1981 Compilation § 8-7:3.030.]

15.20.040 Preliminary review of proposal.

Upon receipt, the City Administrator shall furnish one copy of the tentative plan to each of the following agencies: Pacific Power and Light Company, Northwestern Telephone Company, Northwest Natural Gas Company, School District No. 552, the State Highway Department (if the proposed subdivision is within 200 feet of a state highway or of any road or street for which the State Highway Department has maintenance responsibility), the County Surveyor, County Road Department, the City Engineer, Linn Soil and Water Conservation District, the Brownsville Rural Fire Department, the Southern Pacific Transportation Company if the proposed development crosses or is adjacent to the railroad right-of-way, and any other City, county, state and federal agency, special district, and utility the City Administrator believes to be affected. These agencies shall be given at least 10 working days to review the tentative plan, suggest revisions, and return the recommendations to the City. No response from an agency shall be considered to be approval by the agency. [Ord. 509 § 3.040, 1981; 1981 Compilation § 8-7:3.040.]

15.20.050 Approval of the tentative plan for the proposed subdivision.

A. Hearing. Before the Planning Commission may take action on a tentative plan, it shall hold a public hearing. Notification of the hearing shall be by posting the property to be developed with at least one notice of the hearing giving the date and place of the hearing; notifying by mail the subdivider and abutting property owners which are listed as owners of record by the County Assessor of Linn County; and publication of notice in a newspaper of general circulation in the City. All notices of hearings shall be posted, mailed and published at least 10 days prior to the date of the scheduled hearing. The subdivider shall provide to the City the list of names and addresses of all property owners who are to receive the notice of hearing by mail. Failure of a property owner to receive the notice of the hearing shall not impair the validity of the hearing or of the action taken by the Commission.

B. Within 60 days following the public hearing, the Planning Commission shall take action on the tentative plan and the reports of appropriate officials and agencies.

C. The Planning Commission may approve the tentative plan as submitted, or as it may be modified. If the Planning Commission does not approve the plan, it shall express its disapproval and its reasons therefor. Any conditions of tentative plan approval shall also be expressed.

D. Approval of the tentative plan shall indicate approval of the final plat if there is no change in the plan of the subdivision as approved by the City and if the subdivider complies with the requirements of this chapter and of the provisions of ORS 92.010 through 92.160.

E. The action of the City Planning Commission shall be noted on three copies of the tentative plan, including reference to any attached documents describing conditions. One copy shall be returned to the subdivider, one to the City Recorder, and the other

shall be retained by the Planning Commission.

F. Decisions of the Planning Commission may be appealed to the City Council. [Ord. 509 § 3.050, 1981; 1981 Compilation § 8-7:3.050.]

15.20.060 Submission of final plat.

A. Within six months after approval of the tentative plan, the subdivider shall prepare a final plat in conformance with the approved tentative plan, the provisions of this chapter and the provisions of ORS 92.010 through 92.160.

B. The subdivider shall submit the original drawing as required by ORS 92.080 and any supplementary information to the City Administrator for review and approval.

C. If the subdivider wishes to proceed with the subdivision after the expiration of the six-month period following approval of the tentative plan by the Planning Commission, he/she must resubmit the tentative plan to the Planning Commission and make any revisions considered necessary to meet changed conditions. [Ord. 509 § 3.060, 1981; 1981 Compilation § 8-7:3.060.]

15.20.070 Review and approval of final plat.

A. Upon receipt of the final plat and accompanying data, it shall be reviewed by the City Engineer and the County Surveyor. The City Engineer shall review the plat and documents to determine that it conforms with the approved tentative plan and with the provisions of ORS chapter 92, the Brownsville Comprehensive Plan, and this division. The County Surveyor shall examine the plat for compliance with requirements for survey accuracy and completeness and shall collect such fees for this purpose as are provided for by state law. The City Engineer and other City representatives may make checks in the field to verify that the plat is sufficiently correct on the ground, and they may enter the property for this purpose.

B. If it is determined that there has not been full conformity, the City Administrator shall advise the subdivider of the changes or additions that must be made and afford the subdivider an opportunity to make such changes or additions. If it is determined that full conformity has been made, the City Engineer shall so certify.

C. If it is determined that the final plat conforms fully with the approved tentative plan and all applicable regulations and standards, the City Administrator shall advise the Chairman of the Planning Commission. The City Engineer and the Chairman of the Planning Commission may then sign the plat.

D. In the absence of the Chairman, the duties and powers with respect to action on final plats shall be vested in the Vice-Chairman.

E. Approval of a final plat shall not constitute or effect an acceptance by the City of the dedication of any street, recreation area, drainage way, area reserved for water and sewer line, or other dedication shown on the plat.

F. Prior to recording of the final plat, the subdivider must apply for approval of all public officials, as specified in ORS chapter 92, as amended. Signatures on the final plat by a majority of the Board of County Commissioners shall constitute approval of the plat by them. The subdivider shall then immediately take the approved final plat to the Office of the County Clerk and have it recorded.

G. Approval of the final plat shall be void if the plat is not recorded within 90 days after the date of signature by the Planning Commission Chairman. However, if the subdivider submits a request for a time extension to the Planning Commission, the Commission may grant such additional time as circumstances warrant.

H. An exact copy of the final plat, as approved and recorded, shall be submitted to the City. The exact copy may be a photocopy or a tracing with black India ink upon a good quality of mylar or any other suitable drafting material having the same or better characteristics of strength, stability and transparency. The copies shall be identified as an exact copy of the plat by the engineer or surveyor who caused the plat to be made. [Ord. 509 § 3.070, 1981; 1981 Compilation § 8-7:3.070.]

15.20.080 Time limit for development of a recorded final plat.

A. If a final plat has not been developed within the 10-year period from the date of recording, the plat shall be resubmitted to the City for review and approval. Action on the re-submittal shall be in relation to current requirements of the subdivision code, the Comprehensive Plan, other City land development ordinances, and land use patterns in the surrounding area.

B. A reconsidered final plat shall be reviewed by the Planning Commission at a public hearing.

C. The Planning Commission shall either approve the plat as originally platted, or it shall require that the plat be revised and resubmitted as a tentative plan. If a tentative plan has not been approved within six months of the date of action on the reconsidered final plat, the City may take action to vacate the plat in accordance with the provisions of ORS 92.234.

D. For purposes of this section, a plat has not been developed if none of the required public improvements and roadways have been installed and none of the lots have had buildings placed upon them. [Ord. 509 § 3.080, 1981; 1981 Compilation § 8-7:3.080.]

Chapter 15.25

Tentative Plan for Proposed Subdivisions

Sections:

- [15.25.010](#) **Scale.**
- [15.25.020](#) **General information.**
- [15.25.030](#) **Existing conditions.**
- [15.25.040](#) **Proposed plan of land to be subdivided.**
- [15.25.050](#) **Supplemental information.**

15.25.010 Scale.

The tentative plan of the proposed subdivision shall be drawn on a sheet which is a minimum of 18 by 24 inches in size, at a scale of one inch equals 100 feet. The scale may be increased or decreased if necessary, but in all cases the scale to be used shall be a multiple of 10 feet. [Ord. 509 § 4.010, 1981; 1981 Compilation § 8-7:4.010.]

15.25.020 General information.

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

- A. Proposed name of the subdivision. This name shall not duplicate nor resemble the name of another subdivision in the county and shall be approved by the Planning Commission.
- B. Date, north point and scale of drawing.
- C. Appropriate identification clearly stating the proposal is a tentative plan.
- D. A vicinity map showing the relationship of the proposed subdivision to surrounding development. This map shall include streets within 500 feet of the exterior boundaries of the proposed development.
- E. Names and addresses of the owner, subdivider, and engineer or surveyor. [Ord. 509 § 4.020, 1981; 1981 Compilation § 8-7:4.020.]

15.25.030 Existing conditions.

The following existing conditions shall be shown on the tentative plan of the proposed subdivision:

- A. The location, widths and names of both opened and unopened, dedicated or nondedicated streets within or adjacent to the tract, together with easements, dedications and other important features, such as section lines, corners, City boundary lines and monuments.

B. Contour lines related to some established bench mark or other datum approved by the City Engineer and having minimum intervals as follows:

1. For slopes of less than five percent: two-foot contour intervals.
2. For slopes of five to 15 percent: five-foot contour intervals.
3. For slopes of 15 to 20 percent: 10-foot contour intervals.
4. For slopes of over 20 percent: 20-foot contour intervals.

C. The location and direction of drainage channels and the local of areas subject to flooding.

D. Natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees.

E. Existing uses of the property, including location of all structures on the property.

[Ord. 509 § 4.030, 1981; 1981 Compilation § 8-7:4.030.]

15.25.040 Proposed plan of land to be subdivided.

The following information shall be included on the tentative plan of the proposed subdivisions:

A. The location, width, names, approximate grades and radii of curves of streets. The relationship of streets to any projected streets as shown on any Comprehensive Plan and as may be suggested by the Planning Commission in order to assure adequate traffic circulation.

B. The location, width and purpose of easements.

C. The location, approximate dimension and square footage of lots and the proposed lot and block numbers.

D. Sites, if any, allocated for purposes other than single-family dwellings.

E. Land to be deeded to the City, school district or other public agency for schools, parks or other public purposes. [Ord. 509 § 4.040, 1981; 1981 Compilation § 8-7:4.040.]

15.25.050 Supplemental information.

The following plans and information shall supplement the tentative plan of the proposed subdivision:

A. If the subdivision pertains to only part of the tract owned or controlled by the subdivider, the Planning Commission may require a sketch of a tentative layout for streets and lots in the unsubdivided portion.

B. Proposed deed restrictions, if any, in outline form.

C. The location within the subdivision and in the adjoining streets and property of existing water mains, culverts, drain pipes and electric lines.

D. 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.

E. General utility plans for domestic water supply, storm water drainage and street lighting, indicating how these utilities shall be provided.

F. Any proposals to phase development of the subdivision.

G. Location and width of curbs and sidewalks.

H. Preliminary title report. [Ord. 614 § 1, 1992; Ord. 509 § 4.050, 1981; 1981
Compilation § 8-7:4.050.]



Chapter 15.30

Final Plats

Sections:

- [15.30.010](#) Form and scale of final plat.
- [15.30.020](#) General information on final plat.
- [15.30.030](#) Certificates on final plat.
- [15.30.040](#) Supplementary information with final plat.
- [15.30.050](#) Agreement for improvements.
- [15.30.060](#) Developer's performance guarantee.

15.30.010 Form and scale of final plat.

A. The final plat shall be submitted in the form as required by ORS 92.080. The plat shall be drawn on a good-quality, white, cold-pressed, double-mounted drawing paper 18 inches by 24 inches, with the muslin extended three inches at one end for binding purposes. No part shall come nearer any edge of the sheet than one inch. 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.

B. The scale of the final plat shall be one inch equals 100 feet, except that the scale may be increased or decreased to fit the legal size of 18 by 24 inches. If the scale is changed, it shall be to multiples of 10 feet. In no case shall the scale be decreased to less than one inch equals 200 feet. [Ord. 509 § 5.010, 1981; 1981 Compilation § 8-7:5.010.]

15.30.020 General information on final plat.

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

- A. The date, scale, north point, legend, and existing features such as highways, creeks and railroads.
- B. Legal description of the subdivision boundaries.
- C. Name of the owner(s), developer, engineer and surveyor.
- D. The location by distance and bearings to the following. Distances shall be to the nearest one one-hundredth of a foot, and bearings shall be to the nearest 30 seconds, with basis of bearings.
 1. Monuments or other evidence found on the ground and used to determine the boundaries of the subdivision.

2. Adjoining corners of adjoining subdivisions or existing surveys.
 3. City boundary lines, when crossing or adjacent to the subdivision.
 4. All permanent monuments within the subdivision.
 - E. The exact location and width of streets and easements intersecting the boundary of the subdivision.
 - F. Subdivision, block and lot boundary lines and street right-of-way with dimensions and tangent bearings. Normal high-water lines for any creek or other body of water, when such information is available. Subdivision boundaries and street bearings shall be shown to the nearest 30 seconds, with basis of bearings. Distances shall be shown to the nearest one one-hundredth of a foot. No ditto mark may be used.
 - G. The width of the portion of streets being dedicated and the width of any existing right-of-way. For streets on curvature, curve data shall be used on the street center line. In addition to the center-line dimensions, the radius and center angle should be indicated.
 - H. Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the subdivision.
 - I. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located on record, a written statement of the easement shall be included. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the plat, it shall be properly referenced in the owner's certificates of dedication.
 - J. Lot numbers beginning with the number "1" and continuing consecutively in each block.
 - K. 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.
 - L. Land parcels to be dedicated for any purpose shall be distinguished from lots intended for sale, with acreage and alphabetic symbols for each parcel indicated.
 - M. Notations indicating any limitations on rights of access to or from streets, lots, or other parcels of land, if any are to be made a part of the subdivision restriction.
 - N. Building setback lines, if any, are to be made a part of the subdivision restriction.
- [Ord. 509 § 5.020, 1981; 1981 Compilation § 8-7:5.020.]

15.30.030 Certificates on final plat.

The following certificates, acknowledgements and other requirements established by state law or this chapter shall appear on the final plat. Such certificates may be combined where appropriate.

- A. A certificate signed and acknowledged by all parties having any recorded title interest in the land subdivided, consenting to the preparation and recording of the plat.
- B. A certificate signed and acknowledged as above, dedicating all parcels of land,

streets, alleys, pedestrian ways, drainage channels, other dedications, easements and other rights-of-way intended for public use, except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors and tenants.

C. A certificate of the licensed surveyor who prepared the survey and the registered engineer or surveyor who prepared the final plat.

D. A certificate for execution by the Chairman of the Planning Commission on behalf of the Planning Commission.

E. Other certifications required by law.

F. Written proof that all taxes and assessments which have become a lien on the tract are paid. [Ord. 509 § 5.030, 1981; 1981 Compilation § 8-7:5.030.]

15.30.040 Supplementary information with final plat.

The following data shall accompany the final plat:

A. Addresses of the owner(s), subdivider, engineer and surveyor.

B. Survey Requirement.

1. A complete and accurate survey of the land to be subdivided shall be made by a surveyor licensed to practice in the state of Oregon, in accordance with standard practices and principles of land surveying.

2. Traverse of the exterior boundaries of the proposed subdivision and of each block and lot shall close within a limit of error as specified by ORS 92.050.

C. A copy of any deed restrictions applicable to the subdivision.

D. A copy of any dedication requiring separate documents.

E. Certifications or statements pertaining to the availability of domestic water supply and sewage disposal systems to serve each lot, as outlined in ORS 92.080.

F. A certificate by the City Administrator that the subdivider has complied with one of the following alternatives:

1. All improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Commission giving conditional approval of the tentative plan.

2. An agreement has been executed as provided in BMC [15.30.050](#) and [15.30.060](#) to assure completion of required improvements. [Ord. 509 § 5.040, 1981; 1981 Compilation § 8-7:5.040.]

15.30.050 Agreement for improvements.

Before Planning Commission approval is certified on the final plat, the land divider shall either install required improvements or enter into an agreement with the City regarding improvements. Repair of existing streets and other public or private facilities damaged in the development of the subdivision shall be a part of any improvement agreement. The agreement shall provide for a reasonable amount of time for the repair of streets. The optional procedures are more fully described as follows:

A. The land divider may install the required improvements and make the needed repairs.

B. The land divider may offer the City an agreement, specifying the period within which

the required improvements and repairs shall be completed. The City will accept the agreement if it provides that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense thereof from the land divider. A performance guarantee as provided for in BMC [15.30.060](#) shall be required. The agreement may provide for the construction of the improvements in units for an extension of time under specified conditions. [Ord. 614 § 1, 1992; Ord. 509 § 6.010, 1981; 1981 Compilation § 8-7:6.010.]

15.30.060 Developer's performance guarantee.

A. When required under the provisions of BMC [15.30.050](#), the land divider shall file with the agreement one of the following as a performance guarantee to assure full and faithful performance in installing improvements:

1. 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.
2. In lieu of a surety bond, the land divider may (a) deposit with the City cash money or (b) file a certification by a bank or other reputable lending institution that money is being held to cover the cost. Money will be released only upon authorization of the City Administrator.

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

C. If the land divider fails to carry out provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, within a date established at the time of approval, the City shall call on the performance guarantee for reimbursement. If the amount of the performance guarantee is less than the cost and expense incurred, the subdivider shall be liable to the City for the difference.

D. A performance guarantee shall remain in effect for one year after improvements are installed in order to correct any defects which may have taken place. [Ord. 509 § 6.020, 1981; 1981 Compilation § 8-7:6.020.]

Chapter 15.35 Partitioning of Land

Sections:

[15.35.010](#) Purpose.

[15.35.020](#) Major partitioning procedure.

[15.35.030](#) Minor partitioning procedure.

[15.35.040](#) Approval and recording of a final map for a minor or major partition.

[15.35.050](#) Filing fees.

[15.35.060](#) Standards.

15.35.010 Purpose.

This chapter prescribes procedures and standards governing the partitioning of land. This provision is established to ensure that adequate public access and related utilities and facilities will be provided to parcels created by a division of land into three parcels or less. [Ord. 509 § 7.010, 1981; 1981 Compilation § 8-7:7.010.]

15.35.020 Major partitioning procedure.

A. Any major partition of land shall be submitted to the Planning Commission for review and approval. There shall be submitted to the City an application for approval of a tentative plan map for a partition. The application shall include the following:

1. A map of the land area from which the parcels are to be partitioned. This shall include the date, north point and scale of drawing and sufficient description to define the location, boundaries and dimensions of the tract to be partitioned.
2. Name and address of the owner or owners of record, and of the person who prepared the partition.
3. The parcel layout, showing dimensions and size of parcels.
4. Location of existing buildings to remain in place, drainage ways and other features of the land which are important to its development.
5. Identification of the street area and its relation to existing streets serving the property. Identification shall include location, widths and names of streets.
6. Identification of existing and proposed utilities to serve the property, including location, width and purpose of easements; location and size of sewer and water lines and of drainage ways; street lighting; and location of power and telephone lines.
7. Vicinity map showing the street and lot pattern in the general vicinity.

B. Ten copies of the tentative application map shall be submitted to the City at least 10

days prior to the Planning Commission meeting at which the partition request shall be heard. All affected City, county, state and federal agencies and special districts shall be notified of the application and shall be requested to review the partition proposal and submit their recommendations to the Planning Commission. In all cases, notifications shall be forwarded to Northwestern Telephone Company, Inc.; Linn Soil and Water Conservation District; Brownsville Rural Fire Department; Pacific Power and Light Company; Northwest Natural Gas Company; and to the County Surveyor and the County Road Department. Notification shall also be forwarded to State Highway Department if the proposed partitioning abuts a state highway, and the Southern Pacific Transportation Company if the proposed partition abuts a railroad.

C. Consideration of a tentative plan map for a major partition by the Planning Commission shall take place at a public meeting. This meeting shall occur at least 15 days, but no more than 31 days, after the request has been submitted. Owners of all property abutting the proposed partition shall be notified of the meeting.

D. Within 40 days following the public meeting, the Planning Commission shall take action on the tentative map for a major partition.

E. In taking action on a major partition, the Planning Commission may approve the tentative map as submitted, may approve it with conditions, or it may disapprove the tentative map. The Planning Commission shall express its disapproval and the reasons for the action taken. Any conditions of approval shall also be expressed.

F. Action on a major partition by the Planning Commission is final, unless, within 10 days of the decision, review of the proposal by the City Council is requested by the applicant or a party who is entitled to receive notice of review of the partition. The Council shall consider this request at its next regular meeting.

G. The Council shall either confirm, modify or deny the Planning Commission decision. If the Council modifies or overrules the Commission decision, it shall express its reasons therefor. Any conditions of approval shall also be expressed.

H. Council action on a major partition shall be within 40 days following referral of the map to the Council. [Ord. 509 § 7.020, 1981; 1981 Compilation § 8-7:7.020.]

15.35.030 Minor partitioning procedure.

A. Any division of land that is within the definition of a minor partition shall be submitted to the City for review and approval. The application for a minor partition shall include the following:

1. A map of the land area from which the parcels are not to be partitioned. This shall include the date, north point and scale of drawing and sufficient description to define the location, boundaries and dimensions of the tract to be partitioned.
2. Name and address of the owner or owners of record, and of the person who prepared the partition.
3. The parcel layout, showing dimensions and size of parcels.
4. Location of existing buildings to remain in place, drainage ways, and other features of the land which are important to its development.

B. Approval of minor partitions.

1. The application for approval of a tentative plan for a minor partition shall include the

original map and two copies which shall be filed with the City Administrator. The City Administrator may either approve the tentative proposal as submitted or request the Planning Commission to review it.

2. An application for minor land partition shall be reviewed for consistency with the Comprehensive Plan, zoning code, and this chapter.
3. If an application for a minor land partition is denied by the City Administrator, the applicant may then either modify the map for resubmittal; or he may, within 10 days, request review of the proposal by the Planning Commission at its next regular meeting. The Planning Commission may either uphold the decision of the City Administrator, approve the application with special conditions, or approve the application as proposed. [Ord. 614 § 1, 1992; Ord. 509 § 7.030, 1981; 1981 Compilation § 8-7:7.030.]

15.35.040 Approval and recording of a final map for a minor or major partition.

A. Upon arrival of a tentative map for a minor or major partition, three copies of the map shall be signed, dated and conditions of approval noted. One map shall be returned to the applicant, one retained by the City Administrator, and one retained for Planning Commission files.

B. Final Partition Plan Map. The final plan shall be the survey map that is submitted for recording in the Office of the Linn County Surveyor. It shall include one exact transparent copy and two prints for filing with the City of Brownsville. The final plan shall include the following:

1. The survey map of the parcels being offered for sale prepared by a registered land surveyor. The survey map shall indicate the location of all interior and exterior monuments.
2. A legal description of the parcels being offered for sale.
3. A signed and notarized deed for the street area being dedicated and including any other easement rights being granted to the City related to the parcels.
4. A notarized signature of the owner or owners, declaring the ownership and consenting to the recording of the map.
5. A designated space for approval signatures of the chairman of the Planning Commission, the City Engineer and the County Surveyor.

C. Procedures for Approving Final Map. The final map shall be filed with the City Administrator who shall coordinate the process of final map review and approval.

1. All final maps shall include the information and signatures required in subsection (B) of this section.
2. Prints of the final map for review and approval shall be forwarded to the City Engineer and the County Surveyor.
3. The final map may be approved by the Chairman of the Planning Commission without further Planning Commission review, if it is found that the map is consistent with the approved tentative map and meets all the conditions of approval set by the Planning Commission. If inconsistencies are found in the final map, it will be placed on the agenda of the next regular Planning Commission meeting. [Ord. 614 § 1, 1992; Ord. 509 § 7.040, 1981; 1981 Compilation § 8-7:7.040.]

15.35.050 Filing fees.

At the time of application for partition, the City Administrator shall collect such filing fees as the City Council has established. [Ord. 509 § 7.050, 1981; 1981 Compilation § 8-7:7.050.]

15.35.060 Standards.

The design standards for a subdivision in BMC [15.40.010](#) through [15.40.070](#) shall apply to partitions. Applications for variance shall be in accord with the procedures established in BMC [15.50.010](#) through [15.50.030](#). [Ord. 509 § 7.060, 1981; 1981 Compilation § 8-7:7.060.]



Chapter 15.45 Improvements

Sections:

[15.45.010](#) Improvement procedures.

[15.45.020](#) Specifications for improvements.

[15.45.030](#) Improvements in subdivisions or partitions.

[15.45.040](#) Reimbursement for extra costs.

15.45.010 Improvement procedures.

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

A. Improvement work shall not be commenced until plans have been reviewed 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 final plat. All plans shall be prepared on materials in accordance with requirements of the City.

B. 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.

C. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.

D. Underground utilities and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities shall be placed to lengths that will avoid the need to disturb street improvements when service connections are made.

E. A map showing public improvements as built shall be filed with the City upon completion of the improvements.

F. Costs for required improvements which exceed the City standards for the area to be subdivided shall be divided between the City and the subdivider on a fair-share basis.

[Ord. 509 § 9.010, 1981; 1981 Compilation § 8-7:9.010.]

15.45.020 Specifications for improvements.

Specifications for improvements shall be prepared and submitted to the City Council to supplement the standards of this chapter based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the construction

of the following:

- A. Streets, including related improvements such as curbs, shoulders and sidewalks.
- B. Surface drainage and storm sewer facilities.
- C. Sidewalks and related facilities in pedestrian or bicycle ways.
- D. Tests of streets and utilities after completion of the improvements to determine the quality of work performed. [Ord. 509 § 9.020, 1981; 1981 Compilation § 8-7:9.020.]

15.45.030 Improvements in subdivisions or partitions.

The following improvements shall be installed in subdivisions and partitions at the expense of the land divider:

- A. **Water Supply System.** Water lines, to each lot or parcel line, and fire hydrants shall be installed. The design shall be to standards established by the City and shall take into account provisions for extensions beyond the development that are in conformance with the Comprehensive Plan and to adequately grid the water system.
- B. **Sewer Supply System.** Sewer lines serving each lot or parcel and connecting them to mains shall be installed. The design shall be to standards established by the City and shall take into account provisions for extensions beyond the development that are in conformance with the Comprehensive Plan and to adequately serve the City. All facilities which are necessary to serve the subdivision shall be installed.
- C. **Surface Drainage and Storm Drain Facilities.** Grading shall be performed and drainage facilities shall be provided within the development and to connect the area drainage to drainage ways or storm sewers outside the subdivision. Design of drainage shall be to City standards, shall be approved by the City, and shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the development and to allow extension of the system to serve such areas. If necessary, provision shall be made for retention storage areas designed and constructed to standards as provided by the City Engineer.
- D. **Streets.** Public streets, including alleys, within the development, and public streets adjacent but only partially within the development, shall be improved. Improvements shall be made to the paving line of existing streets which intersect with streets in the subdivision. Catch basins shall be installed and connected to drainage tile leading to storm sewers on drainage ways. Upon completion of the street improvements, monuments on all property corners shall be established or reestablished by the subdivider. Bench marks shall be installed at each street intersection. Street center lines, crosswalks, bikeways and other traffic control symbols shall be marked.
- E. **Curbs and Sidewalks.** Curbs and sidewalks shall be installed in any special pedestrian way. However, in areas where alternative pedestrian routes are available, the Planning Commission shall determine whether pedestrian access is adequate and sidewalks are required.
- F. **Street Name Signs.** Traffic control devices and street name signs, designed to City specifications, shall be installed at all street intersections and elsewhere as required by the City.
- G. **Electrical and Other Wires.** Wires serving within a land division, including but not limited to electric power, communication, street lighting and cable television wires,

shall be placed underground. The Planning Commission may modify or waive this requirement in acting on a tentative plan upon a finding that underground installation:

1. Is impractical due to topography, soil or subsurface conditions;
2. Would result in only minor aesthetic advantages, given the existence of above-ground facilities nearby; or
3. Would be unnecessarily expensive in consideration of the need for low-cost housing proposed on the lots or parcels to be served. [Ord. 614 § 1, 1992; Ord. 509 § 9.030, 1981; 1981 Compilation § 8-7:9.030.]

15.45.040 Reimbursement for extra costs.

The developer may be required to install improvements having supplemental size or capacity in order to benefit property outside the subdivision and to dedicate the additional improvements to the City. If this condition is required, the City shall enter into an agreement with the developer to reimburse him for that portion of the cost of the improvements equal to the difference between the amount it would have cost to install the improvements to serve the subdivision only and the actual cost of the improvements. The City shall reimburse the developer upon receipt of proportionate amounts from owners of property benefited within 10 years of the date of the agreement. [Ord. 509 § 9.040, 1981; 1981 Compilation § 8-7:9.040.]

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Chapter 15.50 Variances

Sections:

[15.50.010](#) Variance application.

[15.50.020](#) Conditions for granting a variance.

[15.50.030](#) Planning Commission action on variances.

15.50.010 Variance application.

When necessary, the Planning Commission may authorize variances to the requirements of this chapter. Application for a variance shall be made by petition of the land divider, stating fully the grounds for the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative plan and shall be considered by the Planning Commission, along with the tentative plan. [Ord. 509 § 10.010, 1981; 1981 Compilation § 8-7:10.010.]

15.50.020 Conditions for granting a variance.

Before a variance may be granted, the Planning Commission shall first determine that all of the following circumstances exist:

A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity, and result from parcel size and shape, topography, or other circumstances over which the owners of the property since enactment of this chapter have had no control. Project costs shall not be considered as an exceptional or extraordinary circumstance.

B. 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.

C. The variance would not be materially detrimental to the purposes of this chapter, 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.

D. The variance requested is the minimum variance which would alleviate the hardship. [Ord. 509 § 10.020, 1981; 1981 Compilation § 8-7:10.020.]

15.50.030 Planning Commission action on variances.

In acting to grant, modify or deny a variance, the Planning Commission shall make a written record of its findings and the facts in connection therewith, and shall describe the variance granted and the conditions designated. The Secretary of the Planning Commission shall keep the findings on file as a matter of public record. Within five days of the date of action on the variance by the Planning Commission, the

Commission shall transmit a copy of the action on the variance to the land divider.
[Ord. 509 § 10.030, 1981; 1981 Compilation § 8-7:10.030.]



Chapter 15.55

Special Development Zones

Sections:

[15.55.010](#) Subdivision and partition of land in special development zones.

15.55.010 Subdivision and partition of land in special development zones.

A. The special development zone does not include minimum lot size or building setback requirements. Lot size and shape shall be determined at the time of approval of the tentative plan. Factors as outlined in BMC [15.80.120](#) shall be taken into consideration.

B. In addition to the other requirements of this division, the developer will show, on the tentative plan, screening and buffering, location of all building sites, and all setbacks that will be in deed restrictions.

C. The developer will show how the size, shape and placement of parcels is based upon a consideration of:

1. Existing lots.
2. Slope (including percent buildable area).
3. Density of vegetation.
4. Access (pedestrian, nonmotorized, motorized and emergency vehicle).
5. Possibility of erosion.
6. Soil type.
7. Distance to bedrock.
8. Natural drainage channels.
9. Connection to City sewer and water services.
10. Open space to be protected.
11. Vegetation to be protected.

D. Clustered developments in the special development zone are encouraged. Cluster development occurs where residential units and nonaccessory buildings will be less than 12 feet apart. Such developments, however, could cause health and safety problems if precautions are not taken. Therefore, the developer will show in the tentative plan how:

1. The occupants of the structures, if the unit(s) will be residential, will receive sufficient light and air to safeguard personal health and welfare.
2. For residential developments, extra open area is ensured through (a) covenants; (b) land owned by a homeowner's association and safeguarded through subdivision agreements; or (c) land dedicated to the City.

3. Screening and building design will ensure privacy between ground-level entrances and patios.

4. Landscaping and building design will ensure visual relief about the structures. [Ord. 509 § 11.010, 1981; 1981 Compilation § 8-7:11.010.]



Chapter 15.60 Violation – Penalty

Sections:

[15.60.010](#) Administration.

[15.60.020](#) Appeal.

[15.60.030](#) Amendment.

[15.60.040](#) Interpretation.

[15.60.050](#) Findings.

[15.60.060](#) Administrative procedure for handling alleged violations.

[15.60.070](#) Penalty.

15.60.010 Administration.

The City Administrator shall have the power and duty to enforce the provisions of this division. An appeal from a ruling of the Administrator shall be made to the City Planning Commission. [Ord. 509 § 12.010, 1981; 1981 Compilation § 8-7:12.010.]

15.60.020 Appeal.

A. Any person affected by a decision may appeal to the City Council from a decision or requirement made by the Planning Commission. Written notice of the appeal must be filed with the City Administrator within 10 days after the decision or requirement is made with respect to a proposed minor partition, or within 30 days after the decision of requirement is made with respect to a proposed major partition or subdivision. The notice of appeal shall state the nature of the decision or requirement and the grounds for the appeal.

B. The City Council shall hold a hearing on the appeal within 40 days from the time the appeal is filed. The Council may continue the hearing for good cause. Following the hearing, the Council may overrule or modify the decision or requirement made by the Planning Commission if the decision of the Council complies with the spirit and intent of this chapter. The disposition of the appeal shall be final.

C. Stay of Proceedings. When an appeal is filed, it shall stay all proceedings by all parties in connection with the matter from which appeal is taken, until the determination of such appeal by the Council. [Ord. 509 § 12.020, 1981; 1981 Compilation § 8-7:12.020.]

15.60.030 Amendment.

The provisions of this division may be amended after public hearings by the Planning Commission and City Council. The Planning Commission shall first hold a hearing and shall transmit its recommendations and findings to the City Council. The City Council shall hold the final hearing and shall consider the recommendations of the Planning Commission in making its decision. All amendments to this division shall comply with the provisions of ORS 92.048(5). [Ord. 509 § 12.030, 1981; 1981 Compilation § 8-7:12.030.]

15.60.040 Interpretation.

Where the conditions imposed by any provision of this division are less restrictive than comparable conditions imposed by any other provisions of this division or any other ordinance, the provision which is more restrictive shall govern. [Ord. 509 § 12.050, 1981; 1981 Compilation § 8-7:12.050.]

15.60.050 Findings.

Decisions involving approval of subdivisions and major partitions shall contain findings of fact. Proponents, opponents and City staff may submit proposed findings. Findings of fact shall be contained in the motion and signed by the Chairperson. [Ord. 509 § 12.060, 1981; 1981 Compilation § 8-7:12.060.]

15.60.060 Administrative procedure for handling alleged violations.

- A. Within 10 days after receiving information of a possible violation of this division, the City Administrator shall investigate and, if the City Administrator determines that a violation exists, shall notify the property owner to correct the violation.
- B. Where the violation does not involve a structure, action to correct the violation shall be made within 30 days. If the violation involves a structure, action to correct the violation shall be made within 60 days.
- C. If no action has been taken to correct the violation within the specified time, the City Administrator shall notify the City Attorney and the City Council.
- D. The City Council, upon recommendation by the City Attorney, shall set the date for a meeting with the person violating this division and with the City Administrator to consider whether subsequent legal action should be taken. If the City Council determines legal action is necessary, the City Attorney shall be directed to take such legal action as required to assure compliance with this division. [Ord. 509 § 12.070, 1981; 1981 Compilation § 8-7:12.070.]

15.60.070 Penalty.

In addition to penalties provided by state law, any person who violates or fails to comply with any provisions of this division shall, upon conviction thereof, be punished by a fine of not more than \$500.00, or by imprisonment for not more than 30 days, or both. A violation of this division shall be considered a separate offense for each day the violation continues. [Ord. 509 § 12.080, 1981; 1981 Compilation § 8-7:12.080.]

TOC



Division III. Planning and Zoning

Chapter 15.65 Comprehensive Plan

Sections:

[15.65.010](#) Adoption.

[15.65.020](#) Amendment procedure.

Code reviser's note: The Comprehensive Plan was adopted by Ord. 494 and amended by Ords. 497, 524, 579, 587, 592, 598, 613, 619, 662, 664, 668, and 669.

15.65.010 Adoption.

A. Title. This chapter shall be known as the Comprehensive Plan of the City of Brownsville.

B. Purpose. The purpose of this chapter is to:

1. Adopt the Comprehensive Plan and make it the official land use document of the City of Brownsville.
2. Provide a method to ensure greater citizen involvement in the planning process.
3. Manage and accommodate future growth and development in a rational and economic manner.
4. Comply with state law, ORS chapter 197.
5. Ensure the health, safety and welfare of all citizens of the City.
6. Establish goals and policies which will direct and guide the growth of the City.
7. Clearly set forth those standards by which development will be judged.

C. Amendment. The Comprehensive Plan will serve as a flexible document which will be amended, updated and continually improved upon as an ongoing process which encourages adaptation to changing attitudes, technology and needs. The Comprehensive Plan will serve as the basis of all future Comprehensive Plans to be developed. [Ord. 494 §§ 1, 2, 3, 1980; 1981 Compilation §§ 8-3.1, 8-3.2, 8-3.3.]

15.65.020 Amendment procedure.

A. Purpose. The Comprehensive Plan of the City of Brownsville is established to safeguard the health, safety and welfare of the citizens of Brownsville while encouraging private use of the land. This amendment procedure is designed to allow changes to be made in the Comprehensive Plan because of changes in public policy, physical circumstances, and technological change.

B. Definitions.

1. "Commission" means the Planning Commission of the City of Brownsville.
 2. "Comprehensive Plan" means the Comprehensive Plan of the City of Brownsville, Oregon, as passed by ordinance of the City Council, and as amended by the ordinance codified in this chapter.
 3. "Subdivision code" means the subdivision code of the City of Brownsville, Oregon.
 4. "Zoning code" means the zoning code of the City of Brownsville, Oregon.
- C. Application. Application for amendment of the Comprehensive Plan may be initiated by:
1. Affected individuals, agencies and jurisdictions.
 2. The Brownsville Planning Commission.
 3. The Brownsville City Council.
- D. Filing. Application for amendment of the Comprehensive Plan shall be filed on a form provided by the City Administrator, according to the provisions of this chapter.
1. Prior to filing an application for amendment, the applicant shall schedule and attend a preapplication conference with the City Administrator. The conference will be scheduled within 10 days of the request of the applicant.
 2. The City Administrator shall refuse to accept an amendment application if insufficient information has been submitted to process the application, or if the applicant has failed to attend a preapplication conference as per subsection (D)(1) of this section.
 3. No action by the City Administrator shall be interpreted as approval or denial of the application, either at the preapplication conference or Planning Commission hearing.
 4. The City Administrator will schedule a public hearing with the Planning Commission within 30 days of the receipt of the application for amendment.
 5. The fees assessed for each application shall be determined by resolution before the City Council.
 6. Application for amendment of the Comprehensive Plan may be initiated to amend the plan map for a particular parcel or number of parcels, to amend the plan policies, or to amend a combination of the plan map and policies.
 - a. An application to amend the plan map designation for a parcel or parcels to two or more map designations shall require two or more separate applications, although such applications may be consolidated into a single hearing. Approval of one application shall not mandate approval of the other application.
 - b. An application to amend both the plan map and policies shall require two separate applications and hearings: one to amend the map, one to amend the policies. Approval of one application shall not mandate approval of the other application.
- E. Notice. Notice of a public hearing before the Planning Commission and the City Council on a proposed Comprehensive Plan amendment shall be posted on the property, published in a newspaper of local circulation, and mailed to property owners and renters affected by the Comprehensive Plan policy change, or within 500 feet of the proposed Comprehensive Plan map change.
1. Notice shall be mailed by first class mail to the affected owners at the address shown on the last available complete tax assessment roll not less than 20 days nor more than 30 days prior to the date scheduled for public hearing. The applicant shall

supply such a list with the application.

2. Failure of the property owner or renter affected by the proposed Comprehensive Plan amendment to receive notice of public hearing shall not invalidate a recommendation by the Planning Commission or a final decision by the City Council.
3. Notice of the proposed plan map amendment indicating the date and time affixed for public hearing shall be posted on the applicant's property by City employees, who shall have the right of entry and posting, with such posting to occur not less than 20 days prior to the date of public hearing.
4. The City Administrator may delay or reschedule the hearing date for a proposed amendment at the request of the applicant with no additional charge only if notice of the public hearing has not been mailed to affected persons.
5. Notice of an application to amend the Comprehensive Plan shall be transmitted to all affected special districts or other governmental entities, affected federal, state, county and regional agencies and/or City departments.
 - a. Such notice shall be transmitted a minimum of 20 days prior to the date of public hearing to allow affected agencies and departments sufficient time to comment on the proposed amendment.
 - b. All agency and department comments received by the City Administrator shall be made a part of the hearing record and shall be considered during the public hearing.
 - c. Failure of an affected governmental entity or public committee to receive notice of public hearing on a proposed amendment to the Comprehensive Plan shall not invalidate a recommendation by the Planning Commission or a final decision by the City Council.

F. Hearings.

1. The Planning Commission shall conduct a minimum of one public hearing on an application to amend the Comprehensive Plan.
 - a. A minimum of a simple majority of the total membership of the Planning Commission shall vote in favor of a recommendation to the City Council on the proposed amendment.
 - b. The Planning Commission shall render a recommendation on the proposed amendment between the next regularly scheduled Planning Commission meeting and 60 days of the closing of the first hearing. Failure of the Planning Commission to render a recommendation within the prescribed time shall result in a new public hearing before the City Council without cost to the applicant.
 - c. In issuing its recommendation, the Planning Commission may approve or deny the proposed amendment as submitted, or may modify or amend the application.
2. The City Council shall conduct a minimum of one public hearing on an application to amend the Comprehensive Plan.
 - a. In making a final decision on the proposed plan amendment, the Council shall consider any pertinent evidence, including the testimony of the public, comments by affected agencies, departments, special districts and committees, the City's staff report, Planning Commission recommendations, and other such data.
 - b. The Council shall render a final decision on the application within 90 days of the first Council hearing.

c. In issuing its final decision, the Council may approve or deny the proposed amendment as submitted, or may modify or amend the application.

3. The burden of proof shall be upon the applicant to substantiate that the proposed Comprehensive Plan amendment will meet an existing public need for the kind of change requested, and that the public need will best be met by the proposed amendment, at the exclusion of other alternative locations or policy changes. The burden of proof shall increase proportionately with the magnitude of change requested.

G. Approval. To approve an application for amendment of the Comprehensive Plan, findings shall be made that:

1. The proposed amendment assists the City to comply with the state-mandated planning goals and guidelines and other applicable legislative acts and judicial determinations;
2. The proposed amendment is of substantial public need to warrant action prior to the timetable established for revision of the existing Comprehensive Plan;
3. Other suitable alternative locations or policy changes are not presently available to accommodate the use for which the amendment is proposed;
4. Approval of the proposed Comprehensive Plan amendment will not have a significant negative impact on the existing level of public facilities and transportation services, and on the overall land use pattern of the area;
5. The development limitations, such as soil and foundation suitability, geology, water quality, etc., of the parcel and area are capable of supporting the use for which the Plan is proposed to be amended; and
6. The proposed amendment will not have a significant negative impact on the health, safety or welfare of any citizen.

H. Review. The City of Brownsville shall review the Comprehensive Plan and related ordinances every three years.

1. Revisions of the Comprehensive Plan shall be either in the form of amendments which comply with this chapter, or a complete rewrite of the Comprehensive Plan, which shall pass as an ordinance through the City Council.
2. The City of Brownsville shall take action on any element of the plan (land use, public facilities, housing, transportation, and urbanization) prior to the scheduled review period if it is found that circumstances have drastically changed which render an element or any part thereof inefficient to serve the best interest and to preserve the health, safety and general welfare of the Brownsville community.

I. Validity. If a section or subsection of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. [Ord. 497 §§ 1 – 9, 1980; 1981 Compilation §§ 8-4.1 – 8-4.9.]

Chapter 15.70

General Provisions

Sections:

- [15.70.010](#) Title.
- [15.70.020](#) Purpose.
- [15.70.030](#) Definitions.
- [15.70.040](#) Compliance with division provisions.
- [15.70.050](#) Consolidation of proceedings.
- [15.70.060](#) Time period for decision-making.
- [15.70.070](#) Ex parte communications with approval authority.

15.70.010 Title.

This division shall be known as the zoning code of the City of Brownsville. [Ord. 504 § 1.010, 1980; 1981 Compilation § 8-5:1.010.]

15.70.020 Purpose.

The text and zoning map of this division constitute the zoning regulations for the incorporated area of the City of Brownsville and are adopted to protect and promote the public health, safety and welfare, to assist in carrying out the City of Brownsville Comprehensive Plan, and to assist in implementing statewide land use planning goals as adopted by the State of Oregon Land Conservation and Development Commission. [Ord. 504 § 1.020, 1980; 1981 Compilation § 8-5:1.020.]

15.70.030 Definitions.

As used in this division, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

"Abut" means "contiguous to": for example, two lots with a common property line.

"Abut" does not apply to buildings, uses or property separated by public rights-of-way, railroads, rivers or similar features.

"Accessory structure or use" means a structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use.

"Access way" means an unobstructed way of specified width containing a drive or roadway which provides vehicular access within a manufactured dwelling park and connects to a public street.

"Aggregate and mineral resources" means aggregate, including gravel, sand, soil, and

quarry rock, aggregate rock, minerals, and fossil fuels which are now in the ground and which can be economically removed, now or in the future.

"Alley" means a street which affords only a secondary means of access to property.

"Arterial street" means a street intended to carry traffic to and from major traffic generators; to carry traffic to and from major residential sections of the community; to carry traffic to and from major outlying rural areas; to supplement the state highway system to be used primarily for through traffic; and to provide for longer trips at higher traffic volume than other elements of the local street system.

"Awning" means any stationary structure used in conjunction with a mobile home other than a window awning, for the purpose of providing shelter from the sun and rain and having a roof with supports and not more than one wall or storage cabinet substituting for a wall.

"Buffer" means an area of natural or planted vegetation which is dense enough to screen a particular use from view and to lower noise and air pollution levels.

"Building" means a structure built for the support, shelter or enclosure of persons, animals or property of any kind.

"City" means the City of Brownsville, Oregon.

"Collector street" means a street intended to carry traffic between minor streets and the arterial system, to function as a primary traffic carrier within a neighborhood and to provide for intermediate trip lengths with moderate to low traffic volumes.

"Commission" means the Planning Commission of the City of Brownsville.

"Development" means a building, drilling or mining operation, a material change in the use or appearance of a structure or land, a division of land into two or more parcels, including partitions or subdivisions, and creation or termination of a right of access.

"Duplex" means a building containing two dwelling units.

"Dwelling, multifamily" means a building containing three or more dwelling units.

"Dwelling, single-family" means a detached building containing one dwelling unit.

"Dwelling unit" means one or more rooms designed for occupancy by a family and not having more than one cooking facility.

"Family" means an individual or two or more persons related by blood, marriage, adoption or legal guardianship living together in a dwelling unit in which meals or lodging may also be provided for not more than four additional persons, excluding servants; or a group of less than five persons, excluding servants, who need not be related by blood, marriage, adoption or legal guardianship, living together in a dwelling unit.

"Fence, sight-obscuring" means a continuous fence, wall, planting or combination thereof, arranged so as to effectively screen a particular use from view.

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

"Height of building" means the vertical distance from the "grade" to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or the average height of the highest gable of a pitch or hip roof.

"Historic Review Committee" means a committee established by the City of

Brownsville to review and regulate all development in the "Old Town" commercial zone with respect to the historic significance of the area.

Home Occupation. A "home occupation" may serve as the basis or headquarters of any operation, profession, occupation or business which takes place at any location, or uses or employs no more than two persons other than the members of the family. A home occupation is a lawful activity commonly carried on within a building upon residential premises by members of the family occupying the dwelling and provided the residential character of the building is maintained and does not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

"Hotel" means a building in which lodging is provided for guests for compensation and in which no provision is made for cooking in the room.

"Impervious surface" means that portion of a lot which is covered by structures and by asphaltic or concrete surfacing.

"Limited manufacturing" means establishments primarily engaged in the on-site production of goods by hand manufacturing, which involves only the use of hand tools or light mechanical equipment, and the incidental direct sale to consumers of only those goods produced on-site with no outside storage permitted, and provided a permit is not required from the Oregon Department of Environmental Quality. Typical uses include ceramic studios, food processing, wood working, custom jewelry manufacturers, or instruction studios for similar arts and crafts.

"Loading space" means an off-street space within a building or on the same lot with a building for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or material and which space has access to a street.

"Local street" means a street intended to provide access to abutting properties and which provides for short trip length with very low traffic volume.

"Lot" means a parcel or tract of land which is occupied or may be occupied by a structure, together with yards and other open spaces.

"Lot area" means the total horizontal area within the lot lines of a lot, usually referred to in square feet.

"Lot corner" means a lot, two adjacent sides of which abut streets other than alleys, provided the angles of intersection of the adjacent streets does not exceed 135 degrees.

"Lot, interior" means a lot other than a corner lot.

Lot Line.

1. **"Lot line, front"** means, in the case of an interior lot, the lot line separating the lot from the street other than an alley and, in the case of a corner lot, the shortest lot line along a street other than an alley.

2. **"Lot line, rear"** means a lot line which is opposite and most distant from the front lot line and, in the case of an irregular, triangular, or other-shaped lot, a line 10 feet in length within the lot, parallel to and at a maximum distance from the lot line (front).

3. **"Lot line, side"** means any lot line not a front or rear lot line.

"Lot width" means the horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

Manufactured Dwelling.

1. A "manufactured dwelling" means:

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

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

c. Manufactured Home.

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

ii. A structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as those standards are or may be amended.

2. "Manufactured dwelling" does not mean any building or structure subject to the Structural Specialty Code adopted pursuant to ORS 455.100 through 455.450 or any unit identified as a recreation vehicle by the manufacturer.

"Manufactured dwelling park" means any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 through 92.190.

"Manufactured home park" means any place where four or more manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 through 92.190.

"Motel" means a building or group of buildings on the same lot containing guest units

with separate entrances from the building exterior or enclosed hallway and consisting of individual sleeping quarters, detached or in connected rows, for renters or transients.

"Multiple-family dwelling" means three or more dwelling units in a single structure.

"Nonconforming structure or lot" means a lawful existing structure or lot at the time the ordinance codified in this division or any amendment thereto becomes effective which does not conform to the dimensional requirements of the zone in which it is located.

"Nonconforming use" means a lawful existing use at the time the ordinance codified in this division or any amendment thereto becomes effective which does not conform to the use requirements of the zone in which it is located.

"Parking space" means an off-street enclosed or unenclosed surfaced area not less than 20 feet long and eight and one-half feet wide, together with maneuvering and access space required for a standard automobile to park, permanently reserved for the temporary parking of one automobile and connected with a street by a surface driveway which affords ingress and egress for automobiles.

"Person" means every natural person, firm, partnership, association or corporation.

"Ramada" means a stationary structure having a roof extending over a mobile home which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from sun and rain.

"Recreational vehicle" means a vehicle with or without motive power which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and has a gross floor area not exceeding 400 square feet in set-up mode and as further defined, by rule, by the Building Codes Agency.

"Recreational vehicle park" means any lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space, or keep space for rent, to any person for temporary, overnight parking and occupancy of recreational vehicles, for a charge or fee paid for the rental or use of such facilities or to offer space free in connection with securing the trade or patronage of such person.

"Residential facility" means a residential care, residential training or residential treatment facility licensed or registered by or under the authority of the Department of Human Services, as defined in ORS 443.400, under ORS 443.400 through 443.460 or licensed by the Children's Services Division under ORS 418.205 through 418.327 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to 15 individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

"Residential home" means a residential treatment, training or adult foster home licensed by or under the authority of the Department of Human Services, as defined in ORS 443.400, under ORS 443.400 through 443.825, a residential facility registered under ORS 443.480 through 443.500 or an adult foster home licensed under ORS 443.705 through 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any

resident of the residential home.

"Screen" means a fence, wall, berm, hedge, tree row, or other dense structure intended to perform a buffering effect in a limited space.

"Story" means that portion of a building included between the upper surface of any floor and upper surface of the floor next above (the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above). If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

"Street" means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land and including the terms "road," "highway," "avenue," or similar designations.

"Structural alteration" means any change to the supporting member of a building, including foundations, bearing walls, or partitions, columns, beams or girders, or any structural change in the roof.

"Structure" means that which is built or constructed. An edifice or building of any kind or any place of work artificially built up or composed of parts joined together in some manner, and which requires location on the ground or which is attached to something having location on the ground.

"Substantial alteration" means remodeling, repair, replacement, addition or construction to a site, use or structure which, in sum, costs more than 10 percent of the value of the site, use or structure.

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

"Vision clearance area" means a triangular area on a lot at the intersection of streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to point of intersection. The vision clearance area contains no plantings, walls, structures or temporary or permanent obstructions exceeding three and one-half feet in height, measured from the top of the street surface.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this division.

1. "Yard, front" means an open space between side lot lines and measured horizontally from the front lot line at right angles to the nearest point of the building.

2. "Yard, rear" means an open space extending between side lot lines and measured horizontally at right angles from the rear lot line to the nearest point of a main building.

3. "Yard, side" means a yard between a building and the side lot line, measured horizontally at right angles to the nearest point of the building. [Ord. 618 § 1, 1993; Ord. 616 § 1, 1993; Ord. 615 § 1, 1992; Ord. 504 § 1.030, 1980; 1981 Compilation § 8-5:1.030.]

15.70.040 Compliance with division provisions.

No structure or lot shall hereafter be used or occupied and no structure or part thereof

shall be erected, moved, reconstructed, extended, enlarged or altered, or any type of development permitted contrary to the provisions of this division, with the exception that such structures existing at the time of adoption of the ordinance codified in this division shall not be affected so long as the present use continues without interruption or substantial alteration. [Ord. 504 § 1.040, 1980; 1981 Compilation § 8-5:1.040.]

15.70.050 Consolidation of proceedings.

A. Except as provided in subsection (D) of this section, whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding.

B. In such cases provided by subsection (A) of this section, the hearings shall be held by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the City Administrator.

C. Plan map amendments are not subject to the 120-day decision-making period prescribed by state law and such amendments may involve complex issues; therefore, the City shall not be required to consolidate a plan map amendment and a zone change or other permit applications requested unless the applicant requests the proceedings to be consolidated and signs a waiver of the 120-day time limit prescribed by state law for zone change and permit applicants.

D. In the event of consolidations of proceedings:

1. The notice shall identify each action to be taken.
2. The decision on a plan map amendment shall precede the decision on the proposed zone change and other actions.
3. Separate action shall be taken on each application. [Ord. 615 § 2, 1992; Ord. 504 § 1.050, 1980; 1981 Compilation § 8-5:1.050.]

15.70.060 Time period for decision-making.

A. The City shall take final action on an application for a development permit or a zone change, including the resolution of all appeals within 120 days after the application is deemed complete, except:

1. Such period may be extended for a reasonable period of time at the request of the applicant.
2. Such period applies only to a decision wholly within the authority or control of the City.
3. Such period shall not apply to an amendment to an acknowledged Comprehensive Plan or land use regulation.
4. Such period shall not apply to applications governed by ORS 443.540. [Ord. 615 § 2, 1992; Ord. 504 § 1.060, 1980; 1981 Compilation § 8-5:1.060.]

15.70.070 Ex parte communications with approval authority.

A. Members of the approval authority shall not:

1. Communicate, directly or indirectly, with any party or representative of a party in connection with any issue involved, except upon giving notice and opportunity for all

parties to participate.

2. Take notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.

B. No decision or action of the Planning Commission or Council shall be invalid due to an ex parte contact, or bias resulting from an ex parte contact, with a member of the decision-making body, if the member of the decision-making body receiving the contact:

1. Places on the record the substance of any written or oral ex parte communications concerning the decision or action.

2. Makes a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

C. This section shall not apply to the decisions made by the City Administrator.

D. A communication between the City staff and the Planning Commission or Council not relating to factual matters at issue in the hearing shall not be considered an ex parte contact. [Ord. 615 § 2, 1992; Ord. 504 § 1.070, 1980; 1981 Compilation § 8-5:1.070.]

Chapter 15.75

Administration, Enforcement and Interpretation

Sections:

- [15.75.010](#) Administration.
- [15.75.020](#) Appeal to City Council.
- [15.75.030](#) Building permit approval.
- [15.75.040](#) Authorization of similar uses.
- [15.75.050](#) Form of petitions, applications and appeals.
- [15.75.060](#) Fee schedule.
- [15.75.070](#) Findings.
- [15.75.080](#) Interpretation.
- [15.75.090](#) Inspection and right of entry.
- [15.75.100](#) Legal proceedings by City Attorney.
- [15.75.110](#) Suits to enjoin violations.
- [15.75.120](#) Enforcement by Chief of Police.
- [15.75.130](#) Enforcement of conditions.
- [15.75.140](#) Declaration of nuisance.
- [15.75.150](#) Additional remedies.
- [15.75.160](#) Penalty.

15.75.010 Administration.

The City Administrator shall have the power and duty to enforce the provisions of this division. An appeal from a ruling of the Administrator shall be made to the City Planning Commission. [Ord. 504 § 10.010, 1980; 1981 Compilation § 8-5:10.010.]

15.75.020 Appeal to City Council.

An action or ruling of the Planning Commission authorized by this division may be appealed to the City Council within 15 days after the Commission has rendered its decision by filing written notice with the City Administrator. If no appeal is taken within the 15-day period, the decision shall be final. If an appeal is filed, the Council shall receive a recommendation from the Planning Commission and shall hold a public hearing on the appeal. Notice of the public hearing shall be by one publication in a newspaper of general circulation in the City not less than five days nor more than 10 days prior to the date of the hearing. [Ord. 504 § 10.020, 1980; 1981 Compilation § 8-5:10.020.]

15.75.030 Building permit approval.

The City Administrator shall have the authority to review and approve all building permits, both prior and subsequent to construction, to determine compliance with the provisions of this division. [Ord. 504 § 10.110, 1980; 1981 Compilation § 8-5:10.110.]

15.75.040 Authorization of similar uses.

The City Administrator may permit in a particular zone a use not listed in this division, provided the use is of the same general type as the uses permitted there by this division. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone. The decision of the City Administrator may be appealed to the Planning Commission. [Ord. 504 § 10.210, 1980; 1981 Compilation § 8-5:10.210.]

15.75.050 Form of petitions, applications and appeals.

Petitions, applications and appeals provided for in this division shall be made on forms provided for this purpose prescribed by the Planning Commission. Applications shall show the actual shape and dimensions of the lot to be built upon; the exact sizes and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure or part thereof; location and number of off-street parking and loading spaces; number of families to be accommodated, if any; and such other information as is needed to determine their conformance with the provisions of this division and of the building code. [Ord. 504 § 10.310, 1980; 1981 Compilation § 8-5:10.310.]

15.75.060 Fee schedule.

A fee schedule for applications and permits provided by this division shall be established by separate resolutions. [Ord. 504 § 10.320, 1980; 1981 Compilation § 8-5:10.320.]

15.75.070 Findings.

Approval or denial of all land use actions considered by the Planning Commission or City Council shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, the facts relied upon in making the decision and the justification for the decision based upon criteria, standards and facts set forth. Proponents, opponents and City staff may submit proposed findings for consideration by the Planning Commission and the City Council. [Ord. 504 § 10.410, 1980; 1981 Compilation § 8-5:10.410.]

15.75.080 Interpretation.

The provisions of this division shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any other provisions of this division or of any other ordinance, resolution or regulation differ, the provisions which are more restrictive shall govern. [Ord. 504 § 10.510, 1980; 1981 Compilation § 8-5:10.510.]

15.75.090 Inspection and right of entry.

Whenever they shall have cause to suspect a violation of any provision of the zoning code, or when necessary to investigate an application for or revocation of any zoning approval under any of the procedures prescribed in the zoning code, the City Administrator or the City Administrator's duly authorized representative may enter on any site or into any structure for the purpose of investigation, provided they shall first procure the consent of any rightful occupant for entry. If entry is denied, the City shall enter only pursuant to warrant; provided, that nothing herein waives the right of City to enter if a public safety emergency justifies a warrantless entry. [Ord. 696 § 3, 2006; Ord. 590 § 1, 1989; 1981 Compilation § 8-5:10.530.]

15.75.100 Legal proceedings by City Attorney.

The City Attorney, upon the request of the City Administrator, shall institute any necessary legal proceedings to enforce the provisions of the zoning code. [Ord. 590 § 1, 1989; 1981 Compilation § 8-5:10.540.]

15.75.110 Suits to enjoin violations.

On direction of the City Administrator, the City Attorney may institute a suit in the Circuit Court of the State of Oregon to enjoin the maintenance of any use, occupation, building or structure in violation of any provision of the zoning code. [Ord. 590 § 1, 1989; 1981 Compilation § 8-5:10.550.]

15.75.120 Enforcement by Chief of Police.

The Chief of Police and the authorized representatives of the Chief of Police shall have the power, upon request of the City Administrator, to assist in the enforcement of the provisions of the zoning code. [Ord. 590 § 1, 1989; 1981 Compilation § 8-5:10.560.]

15.75.130 Enforcement of conditions.

A. No person shall violate any condition imposed when granting approval for any land use decision under this division.

B. In addition to the penalties and remedies provided in this division, the continued violation of any condition imposed when approval for a land use was granted under this division shall be grounds for revocation of such approval. No revocation shall occur until the owner, and when different from the owner, the occupant, of the property has been notified in writing of the nature of the violation and the intent to revoke the earlier approval and until the owner and occupant are given an opportunity to be heard. Such notification and hearing shall be as provided when abating a nuisance and may be held separate from or in connection with a nuisance abatement proceeding. [Ord. 644 § 2, 1996; 1981 Compilation § 8-5:10.565.]

15.75.140 Declaration of nuisance.

A. Any use which is established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to the zoning code shall be and is hereby declared to be

unlawful and a public nuisance.

B. If the City Administrator or the authorized representative of the City Administrator finds that a use is contrary to the zoning code, the administrator may post a notice on the premises and otherwise proceed to abate the use as a nuisance in accordance with the general nuisance provisions of this code.

C. The City Administrator or the authorized representative of the City Administrator may proceed to summarily abate any use which endangers human life, health or property. The cost of such abatement may be assessed as provided in the general nuisance provisions of this code. [Ord. 590 § 1, 1989; 1981 Compilation § 8-5:10.570.]

15.75.150 Additional remedies.

The remedies specifically provided for in the zoning code shall be cumulative and not exclusive and shall be in addition to any and all other remedies available to the City. [Ord. 590 § 1, 1989; 1981 Compilation § 8-5:10.580.]

15.75.160 Penalty.

A. Violation of any provision in the zoning code is punishable by a fine not to exceed \$500.00 for each day that the violation exists.

B. Each violation of a provision of the zoning code shall constitute a separate offense.

C. Any penalty imposed pursuant to this section shall be in addition to any other remedy that the City may have pursuant to this code or in any other manner provided by law. [Ord. 590 § 2, 1989; 1981 Compilation § 8-5:10.610.]



Chapter 15.80 Zones

Sections:

- [15.80.010](#) Classification of zones.
- [15.80.020](#) Zoning map.
- [15.80.030](#) Zoning of annexed areas.
- [15.80.040](#) Zone boundaries.
- [15.80.050](#) Low density residential zone – LDR.
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- [15.80.070](#) High density residential zone – HDR.
- [15.80.080](#) Old Town commercial zone – OTC.
- [15.80.090](#) Volume commercial – VC.
- [15.80.100](#) Light industrial zone – LI.
- [15.80.110](#) Heavy industrial zone – HI.
- [15.80.120](#) Special development zone.
- [15.80.130](#) Public zone – P.

15.80.010 Classification of zones.

In order to carry out the purpose and the provisions of this division, the City is divided into zones designated as follows:

Zone	Abbreviated Designation
Low Density Residential	LDR
Medium Density Residential	MDR
High Density Residential	HDR
Old Town Commercial	OTC
Volume Commercial	VC
Light Industrial	LI
Heavy Industrial	HI
Special Development	SD
Public	P

[Ord. 504 § 2.010, 1980; 1981 Compilation § 8-5:2.010.]

15.80.020 Zoning map.

The location and boundaries of the zones designated in BMC [15.80.010](#) are hereby established as shown on the map entitled "Zoning Map of the City of Brownsville," dated with the effective date of the ordinance codified in this division, and signed by the Mayor and the City Administrator and hereafter referred to as the "zoning map." A zoning map or zoning map amendment shall be prepared by authority of the City Council and shall be dated with the effective date of the ordinance that adopts the map or the map amendment. The zoning map is hereby adopted by reference. Zone boundaries shall be modified in accordance with zoning map amendments, which shall be adopted by reference. [Ord. 504 § 2.020, 1980; 1981 Compilation § 8-5:2.020.]

15.80.030 Zoning of annexed areas.

Areas annexed to the City shall be zoned either in accordance with the Comprehensive Plan or placed in a less intensive zone. [Ord. 504 § 2.030, 1980; 1981 Compilation § 8-5:2.030.]

15.80.040 Zone boundaries.

Unless otherwise specified, zone boundaries are lot lines or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two zones, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than 20 feet. If the adjustment involves a distance of more than 20 feet, the procedure for a zone change shall be followed. [Ord. 504 § 2.040, 1980; 1981 Compilation § 8-5:2.040.]

15.80.050 Low density residential zone – LDR.

A. Uses Permitted Outright. In an LDR zone the following uses and their accessory uses are permitted outright:

1. Single-family dwelling;
2. Duplex;
3. Agriculture;
4. Residential home;
5. Residential facility.

B. Conditional Uses Permitted. In an LDR zone the following uses and their accessory uses may be permitted, subject to the provisions of Chapter [15.125](#) BMC:

1. Home occupation;
2. Church;
3. Government structure and land use with no equipment storage;
4. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, day care center, birthing center, or hospice;
5. Public or private school;
6. Utility substation or pumping station with no equipment storage.

C. Uses Permitted with Special Development Standards. The following uses are

permitted in accordance with the provisions of Chapters 15.95 and 15.100 BMC:

1. Aggregate and mineral resource development.
 2. Planned unit development.
 3. Manufactured homes sited on individual lots.
 4. Manufactured home park.
 5. Occupancy of recreational vehicles.
- D. Lot Size and Width. In the LDR zone the lot size shall be as follows:
1. The minimum lot area shall be 7,500 square feet for a single-family dwelling.
 2. The minimum lot area shall be 12,000 square feet for a duplex.
 3. The minimum lot width at the front building line shall be 70 feet for an interior lot and 70 feet for a corner lot.
- E. Yard Requirements. In an LDR zone the yards shall be as follows:
1. The front yard shall be a minimum of 20 feet.
 2. On corner lots, the side yard on the street side shall be not less than 20 feet.
 3. On interior lots, the total of both side yards shall be a minimum of 15 feet.
 4. Each side yard not on a street shall be a minimum of five feet.
 5. The rear yard shall be a minimum of 15 feet.
 6. The entrance to a garage or carport, whether or not attached to a dwelling, shall be set back at least 20 feet from the street except an alley.
- F. Height of Buildings. In an LDR zone no principal building shall exceed a height of 35 feet. No accessory building shall exceed a height of 22 feet.
- G. Lot Coverage. In an LDR zone buildings shall not occupy more than 30 percent of the lot area. Total impervious surface shall not exceed 40 percent of the lot area.
- H. The supplementary use provisions as outlined in Chapters 15.85 and 15.115 BMC shall apply. [Ord. 618 § 2, 1993; Ord. 615 § 3, 1992; Ord. 567A § 1, 1987; Ord. 504 § 3.010, 1980; 1981 Compilation § 8-5:3.010.]

15.80.060 Medium density residential zone – MDR.

- A. Uses Permitted Outright. In an MDR zone the following uses and their accessory uses are permitted outright:
1. Single-family dwelling.
 2. Duplex.
 3. Multiple-family dwelling, not to exceed four dwelling units in one structure.
 4. Agriculture.
 5. Residential home.
 6. Residential facility.
- B. Conditional Uses Permitted. In an MDR zone the following uses and their accessory uses may be permitted, subject to the provisions of Chapter [15.125](#) BMC:
1. Home occupation;
 2. Church;
 3. Government structure and land use with no equipment storage;
 4. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, day care center, birthing center, or hospice;
 5. Public or private school;

6. Utility substation or pumping station with no equipment storage;
- C. Uses Permitted with Special Development Standards. The following uses are permitted in accordance with the provisions of Chapters 15.95 and 15.100 BMC:
 1. Aggregate and mineral resource development;
 2. Planned unit development;
 3. Manufactured homes sited on individual lots;
 4. Manufactured home park;
 5. Occupancy of recreational vehicles.
- D. Lot Size and Width. In the MDR zone the lot size shall be as follows:
 1. The minimum lot area shall be 6,500 square feet for a single-family dwelling.
 2. The minimum lot area shall be 8,000 square feet for a duplex.
 3. The minimum lot area shall be 9,500 square feet for a triplex.
 4. The minimum lot area shall be 12,000 square feet for a four-plex.
 5. The minimum lot width at the front building line shall be 65 feet for an interior lot and 70 feet for a corner lot.
- E. Yard Requirements. In an MDR zone the yards shall be as follows:
 1. The front yard shall be a minimum of 15 feet.
 2. On corner lots, the side yard on the street side shall be not less than 15 feet.
 3. On interior lots, the total of both side yards shall be a minimum of 15 feet.
 4. Each side yard not on a street shall be a minimum of five feet.
 5. The rear yard shall be a minimum of 15 feet.
 6. The entrance to a garage or carport, whether or not attached to a dwelling, shall be set back at least 20 feet from the street except an alley.
- F. Height of Buildings. In an MDR zone no principal building shall exceed a height of 35 feet. No accessory building shall exceed a height of 18 feet.
- G. Lot Coverage. In a MDR zone buildings shall not occupy more than 40 percent of the lot area. Total impervious surface shall not exceed 55 percent of the lot area.
- H. The supplementary use provisions as outlined in Chapter 15.85 and 15.115 BMC shall apply. [Ord. 618 § 3, 1993; Ord. 615 § 3, 1992; Ord. 567A § 2, 1987; Ord. 504 § 3.020, 1980; 1981 Compilation § 8-5:3.020.]

15.80.070 High density residential zone – HDR.

- A. Uses Permitted Outright. In an HDR zone the following uses and their accessory uses are permitted outright:
 1. Single-family dwelling.
 2. Duplex.
 3. Multiple-family dwelling.
 4. Agriculture.
 5. Residential home.
 6. Residential facility.
- B. Conditional Uses Permitted. In an HDR zone the following uses and their accessory uses may be permitted, subject to the provisions of Chapter [15.125](#) BMC:
 1. Home occupation.
 2. Church.

3. Government structure and land use with no equipment storage.
 4. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, day care center, birthing center, or hospice.
 5. Public or private school.
 6. Utility substation or pumping station with no equipment storage.
- C. Uses Permitted with Special Development Standards. The following uses are permitted in accordance with the provisions of Chapters 15.95 and 15.100 BMC:
1. Aggregate and mineral resource development.
 2. Planned unit development.
 3. Manufactured homes sited on individual lots.
 4. Occupancy of recreational vehicles.
- D. Lot Size and Width. In the HDR zone the lot size shall be as follows:
1. The minimum lot area shall be 5,000 square feet for a single-family dwelling.
 2. The minimum lot area for attached residential units shall be an additional 1,500 square feet for each additional unit, up to four units.
 3. For multifamily dwellings of five or more units the minimum lot area shall be 2,000 square feet per unit.
 4. The minimum lot width at the front building line shall be 50 feet for an interior lot and 50 feet for a corner lot.
- E. Yard Requirements. In an HDR zone the yards shall be as follows:
1. The front yard shall be a minimum of 10 feet.
 2. On corner lots, the side yard on the street side shall be not less than 10 feet.
 3. On interior lots, the total of both side yards shall be a minimum of 15 feet.
 4. Each side yard not on a street shall be a minimum of five feet.
 5. The rear yard shall be a minimum of five feet.
 6. The entrance to a garage or carport, whether or not attached to a dwelling, shall be set back at least 20 feet from the street except an alley.
- F. Height of Buildings. In an HDR zone no principal building shall exceed a height of 35 feet. No accessory building shall exceed a height of 18 feet.
- G. Lot Coverage. In an HDR zone buildings shall not occupy more than 50 percent of the lot area. Total impervious surface shall not exceed 80 percent of the lot area.
- H. The supplementary use provisions as outlined in Chapter 15.85 and 15.115 BMC shall apply. [Ord. 618 § 4, 1993; Ord. 615 § 3, 1992; Ord. 567A § 3, 1987; Ord. 504 § 3.030, 1980; 1981 Compilation § 8-5:3.030.]

15.80.080 Old Town commercial zone – OTC.

- A. Intent and Purpose. The OTC zone is a special commercial area with an historic motif. The purpose of the zone is to preserve and enhance the historic character, encourage business vitality and allow for moderate expansion of the small town core. The City shall review and regulate development with respect to compliance with the historic motif.
- B. Description. The small town core is a compact, approximately five-block area adjacent to City Hall, the recreation center and park. It contains the City library, senior center, post office and Linn County Museum in addition to the commercial activity. It is

the functional, historic and geographic town center. The town core contains commercial and residential buildings built between 1860 and the present.

Approximately a dozen of these structures have intrinsic historic significance; while others have been altered to blend with Brownsville's historic period: 1860 to 1920.

C. Permitted Uses. Because public parking in the OTC zone is limited to one City lot and the street, uses appropriate in this zone are those that provide walk-in services and retail goods for the local resident or visitor and are limited more by size or scale than by kind. Consideration will also be given to the impact of traffic, noise and late night activities on surrounding residential areas by any proposed uses. Therefore, the following uses are permitted outright:

1. All commercial uses existing at the time of the adoption of the ordinance codified in this subsection, at their current levels of service and scope of business.
2. Commercial uses approved subject to sub-section (E) of this section, Administrative Review Procedures.
3. Residences that existed on or prior to the effective date of the ordinance codified in this division. These residences shall not be considered to be "nonconforming" and may be altered, remodeled, expanded or enlarged. Also, these residences may be reconstructed if unintentionally destroyed.

D. Conditional Uses Permitted. In the OTC zone, the following uses and their accessory uses may be permitted, subject to the provisions of Chapter [15.125](#) BMC:

1. Residences which are secondary to the primary commercial use of the property, including the use of second story space in commercial buildings for owner occupancy or residential rental purposes.
2. Changes from residential use to nonresidential use.
3. All new construction.
4. Uses referred to the Planning Commission upon administrative review per subsection (E) of this section.

E. Administrative Review Procedures. All proposals for changes in use or exterior alterations in the OTC shall be submitted to the City Administrator for review and approval based on the following criteria:

1. Any change of use or expansion of current use of an existing commercial structure shall be reviewed by the City Administrator to determine the appropriateness as a permitted use based on the intentions set forth in the OTC zone. The Administrator shall approve or deny the proposal or refer it to the Planning Commission for review as a conditional use.
2. Proposals for exterior alterations shall be reviewed by the City Administrator and approved only after finding that the following criteria have been met:
 - a. Any proposal requiring a building permit for exterior alterations to a structure in the OTC zone also listed as being "historically significant" on the Brownsville Historic Resources Inventory shall be reviewed as outlined in Chapter [2.35](#) BMC.
 - b. All exterior alterations shall be in the direction of preservation and/or restoration of the building's original form as ascertained from photographs and physical evidence. Those buildings that received a "Victorian facade" in the 1960s, per ordinances in effect at that time, may be preserved and/or restored to that form.

- c. If restoration is not possible, alterations shall be compatible with the existing, historically intact buildings of the designated 1860 to 1920 "historic period." Removal or alteration of historic materials or distinctive architectural features shall be avoided when possible.
- d. Horizontal additions shall provide that the bulk of the addition does not exceed that which was traditional for the building style and the addition maintains the traditional scale and proportion of the building style.
- e. The relationship of windows to walls shall be visually compatible to the extent possible with the traditional architectural character of the historic motif.
- f. Signs (regulated by Chapter [15.90](#) BMC), exterior lighting, and other appurtenances, such as walls, fences, awnings and landscaping, shall be visually compatible with the traditional architectural character of the zone.
- g. The following alterations are exempt from review provided these actions meet the above standards:
 - i. Replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match the appearance of those that were typically used on similar style buildings, or that blend inconspicuously with the building.
 - ii. Repairing, or providing a compatible new foundation that does not result in raising or lowering the building elevation.
 - iii. Replacement of building material, when required due to deterioration of material, with building material that matches the appearance of the original material.
 - iv. Repair and/or replacement of roof materials with the same kind of roof materials existing, or with materials which are in character with those of the original roof.
 - v. Application of storm windows made with wood, bronze, or flat finished anodized aluminum, or baked enamel frames which complement or match the color detail and proportions of the building. This also applies to the installation of solar equipment.
 - vi. Replacement of wood sashes with new wood sashes, or the addition of wood sashes when such is consistent with the original historic appearance.

If the City Administrator determines the proposed alterations do not meet the criteria, the request will be denied. Written findings as to the reason for denial will be provided. The applicant shall be encouraged to request guidance from the Historic Review Board, or another source knowledgeable in historic preservation, and resubmit the proposal. The City Administrator's decision may be appealed to the City Council. Proceeding with the proposed alterations prior to approval by the City constitutes a violation of this division.

F. Historic Review Board Review Procedures.

1. The Historic Review Board shall review all building and site plans for new construction and for conversion from residential to nonresidential use prior to the conditional use permit hearing before the Planning Commission. All new construction must be compatible with the historic motif of the zone, as established by the HRB. The applicant shall submit three copies of all plans to the City Administrator 45 days prior to the date scheduled for the Planning Commission hearing. The HRB shall review the plans and make a written recommendation to the City Administrator within three weeks of receipt. The City Administrator shall include the HRB recommendation in the staff

report for the public hearing to be considered along with other testimony and as part of the total evaluation.

2. Plans submitted for HRB review shall include but are not limited to:

- a. Exterior building elevations.
- b. Pallet of materials proposed to be used on the exterior.
- c. Landscaping plan.
- d. Parking and pedestrian circulation plan.
- e. Exterior lighting and signing proposed.
- f. Other materials necessary to fully describe the project.

G. The supplementary use provisions as outlined in Chapter 15.85 and 15.115 BMC shall apply. [Ord. 618 § 5, 1993; 1981 Compilation § 8-5:3.110.]

15.80.090 Volume commercial – VC.

A. Intent. The intent of the VC zone is to provide a location for retail businesses which potentially generate a high volume of traffic.

1. Uses Permitted Outright. In a VC zone the following uses and their accessory uses are typical of those permitted outright:

- a. Auto laundries, washing and polishing.
- b. Auto sales, repair and rental.
- c. Auto-oriented retail and commercial.
- d. Bowling alley.
- e. Bus depot.
- f. Department store.
- g. Drive-in commercial enterprises.
- h. Drive-in bank or financial center.
- i. Garden supply store.
- j. Grocery store.
- k. Hardware store.
- l. Laundry or clothes cleaning agency, excluding dyeing.
- m. Laundry, self-service.
- n. Lumber yard or building materials sales yard, retail only.
- o. Machinery, farm equipment, or implement sales, service.
- p. Motel, motor lodge.
- q. Motorcycle sales, service, repair.
- r. Eating or drinking establishment.
- s. Rental agency, retail.
- t. Service station.
- u. Tire shop.
- v. Veterinarian's office or animal hospital.
- w. Agriculture.

x. Single-family dwellings that existed on or prior to the effective date of the ordinance codified in this division shall be allowed to be altered, remodeled, expanded or enlarged. Single-family dwellings may be reconstructed if unintentionally destroyed.

B. Conditional Uses Permitted. In a VC zone the following uses and their accessory

uses may be permitted subject to the provisions of Chapter [15.125 BMC](#):

1. Birthing centers.
2. Parking garages.
3. Public, religious, fraternal, and charitable organizations (except schools).
4. Residential units which are secondary or accessory to a commercial use.
5. Skating rink.
6. Club or lodge hall.
7. Multiple-family dwellings of not less than four dwelling units per structure.
8. Mini-storage facility.
9. Recreational vehicle park, if located on a parcel of three acres or more.
10. Limited manufacturing.
11. Residential facility.

C. Uses Permitted with Special Development Standards. The following uses are permitted in accordance with the provisions of Chapters 15.95 and 15.100 BMC:

1. Aggregate and mineral resource development.
2. Planned unit development.

D. Lot Size and Width. In the VC zone the lot size shall be as follows:

1. The minimum lot area shall be 5,000 square feet, except corner lots, which shall be a minimum of 7,000 square feet.
2. The minimum lot width at the front building line shall be 50 feet for an interior lot and 70 feet for a corner lot.

E. Yard Requirements. In a VC zone the yards shall be as follows:

1. The front yard shall be a minimum of 20 feet.
2. The side yard on the street side shall be not less than 20 feet on corner lots.
3. On interior lots, the total of both side yards shall be a minimum of 15 feet.
4. Each side yard not on a street shall be a minimum of five feet.
5. The rear yard shall be a minimum of 10 feet.
6. Structures built along Highway 228 shall follow setback requirements as established by the State of Oregon Department of Transportation.

F. Height of Buildings. In a VC zone no principal building shall exceed a height of 35 feet or two stories, whichever is greater. No accessory building shall exceed a height of one story or 22 feet, whichever is less.

G. Lot Coverage. In a VC zone buildings shall not occupy more than 50 percent of the lot area. Total impervious surface will not exceed 90 percent of the lot area.

H. The supplementary use provisions as outlined in Chapters 15.85 and 15.115 BMC shall apply.

I. Clear-Vision Area. Development on the lot will be designed to provide a clear-vision area for vehicles exiting the lot. This clear-vision area will be formed by the intersection of the driveway center line, the street right-of-way line, and straight line joining said lines through points 20 feet from their intersection. [Ord. 618 § 6, 1993; Ord. 616 § 1, 1993; Ord. 567A § 4, 1987; Ord. 504 § 3.120, 1980; 1981 Compilation § 8-5:3.120.]

15.80.100 Light industrial zone – LI.

A. Uses Permitted Outright. In an LI zone the following manufacturing uses and their

accessory uses, including rental and sales, are typical of those permitted outright:

1. Appliance and motor vehicle painting when contained wholly within a building.
 2. Agriculture.
 3. Book binding and related activities.
 4. Building materials, lumber yard.
 5. Business office of a firm or operation permitted in the LI zone.
 6. Carpentry shop.
 7. Communications equipment manufacture.
 8. Custom cabinet manufacture.
 9. Dyeing and finishing textiles.
 10. Electrical equipment manufacture.
 11. Electronic component and accessories manufacture.
 12. Engineering, laboratory, scientific, precision and research instruments and associated equipment.
 13. Fabricated metal products.
 14. Floor covering mills.
 15. Footwear manufacture.
 16. General hardware manufacture.
 17. Greenhouses, nurseries.
 18. Greeting cards.
 19. Furniture manufacture.
 20. Textile manufacture.
 21. Laundry plants.
 22. Luggage manufacture.
 23. Parking lot or parking garage.
 24. Paperboard container manufacture.
 25. Office and store accessories manufacture.
 26. Leather goods manufacture, except tannery.
 27. Printing and publishing machines manufacture.
 28. Radio and television manufacture.
 29. Retail sales of products manufactured or produced on the premises.
 30. Sign painting and carving.
 31. Surgical, medical, dental, optical and pharmaceutical instruments and supplies.
 32. Warehouses, mini-storage.
 33. Watches, clocks, clockwork-operated devices and parts manufacture.
 34. Wholesale firms.
 35. Truck sales, rental and storage.
 36. Marine pleasure craft sales, supplies and repair.
 37. Mobile home and recreational vehicle sales.
 38. Machinery, farm equipment or implement sales, service.
 39. Single-family dwellings that existed on or prior to the effective date of the ordinance codified in this division shall be allowed to be altered, remodeled, expanded or enlarged. Single-family dwellings may be reconstructed if unintentionally destroyed.
- B. Conditional Uses Permitted. In an LI zone the following uses and their accessory

uses may be permitted subject to the provisions of Chapter [15.125](#) BMC:

1. Ambulance service.
2. Dwelling for owner or caretaker as secondary to an LI zone permitted use.
3. Fire station.
4. Church.
5. Government structure and land use.
6. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home or hospice.
7. School.
8. Utility substation or pumping station with equipment storage.
9. Recreational vehicle park.

C. Uses Permitted with Special Development Standards. The following uses are permitted in accordance with the provisions of Chapters 15.95 and 15.100 BMC:

1. Aggregate and mineral resource development.
2. Planned unit development for industrial uses.

D. Yard Requirements. In an LI zone the yards shall be as follows:

1. The front yard shall be a minimum of 20 feet.
2. The side yard on the street side shall be not less than 20 feet on corner lots.
3. On interior lots, the total of both side yards shall be a minimum of 15 feet.
4. Each side yard not on a street shall be a minimum of five feet.
5. The rear yard shall be a minimum of 10 feet.
6. Structures built along Highway 228 shall follow State of Oregon Department of Transportation setback requirements.

E. Height of Buildings. In an LI zone, no principal building shall exceed a height of 45 feet.

F. Lot Coverage. In an LI zone, the total impervious surface will not exceed 80 percent of the lot area.

G. The supplementary use provisions as outlined in Chapters 15.85 and 15.115 BMC shall apply.

H. Sewage. Prior to the time a newly established use begins operation, adequate provision shall be made for the disposal of sewage and waste materials in accordance with the requirements of the City of Brownsville, the Linn County Health Department and the State Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction.

I. Heat, Glare and Light. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building and shall not be discernible at or beyond the property line. Exterior lighting shall be directed away from and not reflect onto adjacent properties or streets.

J. Vehicle Access. Access points to property from a street shall be located to minimize traffic congestion, and maximum effort shall be made to avoid directing traffic into residential areas. Before a street, other than an arterial, which is a boundary between a residential district and an LI zone, or a street which is within a residential zone, is used for any vehicular access to an LI zone, such use of those streets must first have been approved by the City Administrator.

Access roads and access points will be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced according to City standards.

K. Environmental Quality Standards. All uses in an LI zone shall comply with standards adopted by the Department of Environmental Quality for air, land, water, and noise. Prior to approval of a conditional use application or building permit, evidence shall be submitted to the City indicating that the proposed use or activity has been approved by all appropriate regulatory agencies. Evidence shall be in the form of a letter or copy of a permit from the regulatory agency.

L. Open Storage Yards. All yard areas, exclusive of those required to be landscaped, may be used for materials and equipment storage yards or areas and may be used for the purposes permitted in the LI zone, provided such yard areas are enclosed with an ornamental sight-obscuring fence, wall or a hedge capable of attaining a height sufficient to screen the open area from any street or highway or from any residential area within two years.

M. Odors. The emission of odorous gases or matter in such quantities as to be readily detectable at any point beyond the property line of the use creating such odors is prohibited.

N. Health Hazards. All grounds shall be maintained in a manner which will not create a health hazard. [Ord. 616 § 1, 1993; Ord. 567A § 5, 1987; Ord. 545 § 3, 1983; Ord. 504 § 3.210, 1980; 1981 Compilation § 8-5:3.210.]

15.80.110 Heavy industrial zone – HI.

A. Uses Permitted Outright. In an HI zone the following uses and their accessory uses are typical of those permitted outright:

1. Assembly, manufacture, or preparation of articles or merchandise from the following previously prepared types of materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, lacquer, leather, paper, plastic, precious or semi-precious metal or stones, shells, textiles, tobacco, wax, wire, yarn or paint not employing a boiling process.
2. Automobile, truck, trailer or marine pleasure craft construction.
3. Agriculture.
4. Bottling plant.
5. Cold storage plant.
6. Concrete batch plant.
7. Dwelling for caretaker or guard on property.
8. Electrical equipment assembly, sales, or repair, including the manufacture of small parts such as coils, condensers, transformers, and crystal holders.
9. Electrical, plumbing, heating, or paint contractor's storage, sales, repair, or service, contractor's equipment and storage yard.
10. Express storage or delivery station.
11. Frozen food locker in conjunction with food processing plants.
12. Fruit or nut packing or processing.
13. Fuel oil distribution, wholesale.

14. Furniture manufacture.
 15. Laundry or dry cleaning.
 16. Lumber or building materials manufacture for prefabricated construction.
 17. Machine shop.
 18. Machinery, farm equipment or implement manufacture.
 19. Manufacture of artificial limbs, dentures, hearing aids, surgical instruments and dressings, or other devices employed by the medical or dental profession.
 20. Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products or meat, excluding the rendering of fats and oils, fish and meat slaughtering and fermented foods such as sauerkraut, vinegar or yeast.
 21. Manufacture of figurines, pottery or similar ceramic products using only previously pulverized clay.
 22. Manufacture of optical goods, scientific or precision instruments or equipment.
 23. Manufacture of musical instruments, novelties, rubber or metal stamps or toys.
 24. Mattress manufacture.
 25. Motor freight terminal.
 26. Parking lot or garage.
 27. Rug cleaning plant.
 28. Sheet metal shop.
 29. Sign manufacturing, sales or repair; sign painting shop.
 30. Stone, marble or granite cutting.
 31. Synthetic fuel manufacturing.
 32. Transfer and storage company.
 33. Upholstery shop.
 34. Utility service yard.
 35. Warehouse.
 36. Welding shop.
 37. Wood products manufacturing.
 38. Other uses involving manufacturing, processing or storage except the following:
 - a. Explosives, manufacture or storage.
 - b. Garbage, offal or dead animal reduction or dumping.
 - c. Any use which has been declared a nuisance by statute or ordinance or any court of competent jurisdiction.
- B. Conditional Uses Permitted. In an HI zone the following uses and their accessory uses may be permitted subject to the provisions of Chapter [15.125](#) BMC:
1. Government structure and land use.
 2. School which teaches skills associated with HI zone uses.
 3. Utility substation, pumping station or power transformer station.
 4. Railroad tracks, freight depot, switching yard, and other rail facilities.
 5. Recreational vehicle park.
- C. Uses Permitted with Special Development Standards. The following uses are permitted in accordance with the provisions of Chapters 15.95 and 15.100 BMC.
1. Aggregate and mineral resource development.

2. Planned unit industrial development.

D. Yard Requirements. In an HI zone the yards shall be as follows:

1. The front yard shall be a minimum of 20 feet.
2. On corner lots the side yard on the street side shall not be less than 10 feet.
3. On interior lots the total of both side yards shall be a minimum of 15 feet.

E. Height of Buildings. In an HI zone no principal building shall exceed a height of 45 feet.

F. Lot Coverage. In an HI zone the total impervious surface will not exceed 85 percent of the lot area.

G. Access. Industrial lands shall have access to major highway and railroad facilities provided in a manner so that residential and commercial areas are not adversely affected by industrial traffic.

1. The developer will submit a transportation plan which shows:

- a. Location of vehicular access points.
- b. Estimates of the amount of traffic which will utilize the above access points.
- c. Effect on traffic movement of both vehicles and pedestrians that the proposed development will have on Highway 228.
- d. The identification of all improvements which will be required to maintain adequate traffic flow.

2. All access plans shall be reviewed by the City Engineer.

H. Outside Storage. In an HI zone outside storage abutting or facing a lot in a residential zone shall be enclosed by a sight-obscuring fence. The fence shall obstruct the storage from view on the sides of the property abutting or facing a lot in the residential zone. The fence shall be of a material and design that will not detract from adjacent residences and shall be built according to plans submitted by the owner or authorized agent and approved by the City Administrator.

I. Lighting, Heat and Glare. Except for exterior lighting, operations producing heat and glare shall be conducted so as to have no negative effect on residential or commercial zones. Exterior lighting shall be directed away from adjacent zones or streets.

J. All grounds shall be maintained in a manner which will not create a health hazard.

K. Other Requirements. The use shall comply with Department of Environmental Quality regulations.

L. The supplementary use provisions as outlined in Chapters 15.85 and 15.115 BMC shall apply. [Ord. 616 § 1, 1993; Ord. 567A § 6, 1987; Ord. 504 § 3.220, 1980; 1981 Compilation § 8-5:3.220.]

15.80.120 Special development zone.

A. Intent. Within Brownsville, certain areas have been recognized for their unique physical setting and potential development qualities. All development shall meet standards intended to recognize and maintain the natural environment; to respect natural hazards, drainage problems and the unique setting of these areas, and to provide for access needs.

1. Residential development in the special development zone shall not exceed the density standards of the low-density residential zone of 7,500 square feet minimum lot

area per dwelling unit.

B. Application. An application for developing the special development zone shall include the following:

1. For uses involving placement of a permanent structure on a lot:
 - a. Water plans emphasizing maintenance of daily usage and fire-flow levels.
 - b. Sewer plans showing locations of sewer lines and emphasizing needs to minimize mechanical pumping and crossing of natural drainage channels.
 - c. Drainage plans indicating how the drainage system will relate to natural features and be designed to minimize existing and potential drainage and erosion problems related to the development.
 - d. Access plans stressing how access into the area will not result in problems in nearby areas and how emergency vehicles will be accommodated.
 - e. Clearing, landscaping and buffering plans emphasizing methods to preserve natural vegetation, to minimize potential natural hazard impacts and to assure that structures will blend in with the surrounding area.
 - f. A topographic survey.
 - g. Engineering studies including recommendations related to prevention of potential erosion may be required for development on steep slopes in excess of 10 percent.
 - h. Plans for placement of structures intended to minimize erosion-related problems considering drainage, access, utilities, soil types and underlying bedrock.
2. Open Space. Applications for open space uses, such as public parks and recreation areas, without permanent structures shall include considerations related to water, sewer, drainage and access as outlined in subsection (B)(1) of this section.
3. Forestry. For forestry but not including tree cutting for safety reasons or for personal firewood.
 - a. Any commercial sale of wood must meet the requirements of the Oregon Forest Practices Act.
 - b. A request for a permit shall show the following when not addressed in the Forest Practices Act:
 - i. How erosion-related problems will be minimized during and after cutting.
 - ii. On slopes over 25 percent, an engineering study certifying that the forest activity will not cause landslides, gulying or other erosion-related problems which may be a threat to life or property.
 - iii. How natural drainage channels will be protected from erosion and from over-loading of water or debris.
 - iv. How the area will be reforested after harvesting.
 - v. How vehicular access to and from the property will result in minimal problems to the surrounding areas.
4. Mining and Quarrying Activities.
 - a. A soil engineering report which includes data including existing soil conditions and recommendations pertaining to development of the property for mining or quarrying.
 - b. An engineering geology report which includes a description of the geology of the site and recommendations regarding the effect of geologic conditions on the development.
 - c. A plan showing how the area will be reclaimed which includes a detailed financial

plan.

5. Planned Unit Developments. When applying for a planned unit development in a special development zone the standards listed in this section shall apply in addition to the PUD requirements of Chapter [15.100](#) BMC.

C. Review Procedure. Within the special development zone, a special review procedure is hereby established. Plans shall be submitted which address the requirements listed in this section. All developments shall be classified as either simple or complex.

1. Simple development review includes open space (with or without permanent structures), forestry and single-family dwellings on minor partitions.

a. Plot Plans. Plot plans and other information required by this division shall be submitted to the City Administrator.

b. The City Administrator shall forward information provided by the developer plus information pertaining to the location of City sewer, water, drainage facilities and streets to the following agencies and/or their successors:

- i. Linn Soil and Water Conservation District;
- ii. The Oregon State Department of Geology and Mineral Industries;
- iii. Northwest Natural Gas Company;
- iv. Pacific Power and Light;
- v. Northwestern Telephone Company;
- vi. Brownsville Rural Fire Department;
- vii. Brownsville City Engineer;
- viii. Oregon State Department of Forestry.

The agencies shall be requested to make comments and suggest modifications in the proposal and shall be given one month to reply.

c. The City Administrator may either approve the proposal as submitted, or request the Planning Commission to review it. The Planning Commission's decision shall be made within 90 days after submittal of the proposal to the City. The Planning Commission, after public hearing in accordance with the procedures for conditional use permit, shall either:

- i. Approve the proposal as submitted;
- ii. Approve it with conditions;
- iii. Forward it to the City Council with comments; or
- iv. Deny the proposal.

2. Complex development review includes all uses not covered under simple development review, excluding minor partitions, but only if the proposed development would occur on a major partition or subdivision approved after the adoption of the ordinance codified in this division. The procedures specified for simple development review shall also apply to complex development review except as follows:

a. The Planning Commission shall review and make a decision on the proposal within 90 days after submittal to the City. The Planning Commission, after public hearing in accordance with the procedures for conditional use permits, shall either approve the proposal as submitted, approve it with modifications, forward it to the Council with comments, or deny it.

b. Council action and rights of appeal shall be as outlined for simple development review. [Ord. 615 § 3, 1992; Ord. 567A § 7, 1987; Ord. 525 § 2, 1981; Ord. 504 § 3.310, 1980; 1981 Compilation § 8-5:3.310.]

15.80.130 Public zone – P.

In a P zone the following regulations shall apply:

A. Conditional Uses. In a P zone all public uses are permitted subject to the provisions in Chapter [15.125](#) BMC.

B. Yard Requirements. No specific yard standards shall be provided. Yard requirements may be determined on an individual basis and guided by the prevailing yard requirements in the immediate vicinity, as well as the need to minimize congestion and to provide light and air to the abutting property.

C. Height of Buildings. In a P zone no building shall exceed a height of 35 feet.

D. Lot Coverage. In a P zone buildings shall not occupy more than 50 percent of the lot area. Total impervious surface will not exceed 80 percent of the lot area.

E. The supplementary use provisions as outlined in Chapter 15.85 and 15.115 BMC shall apply. [Ord. 504 § 3.410, 1980; 1981 Compilation § 8-5:3.410.]



Chapter 15.85 Supplementary Provisions

Sections:

- [15.85.010](#) **Setbacks from arterial and collector streets.**
- [15.85.020](#) **Exception to lot size requirements.**
- [15.85.030](#) **Exceptions to yard requirements.**
- [15.85.040](#) **Exceptions to building height limitations.**
- [15.85.050](#) **Access.**
- [15.85.060](#) **Vision clearance.**
- [15.85.070](#) **Screening.**
- [15.85.080](#) **Demolition.**
- [15.85.090](#) **Site plan review.**
- [15.85.100](#) **Accessory uses.**
- [15.85.110](#) **Drainage plans.**
- [15.85.120](#) **Siting standards for property abutting the Calapooia River.**

15.85.010 Setbacks from arterial and collector streets.

The City Council may increase the yard requirements when a yard abuts an arterial or collector street which the City has designated for future widening. [Ord. 504 § 5.010, 1980; 1981 Compilation § 8-5:5.010.]

15.85.020 Exception to lot size requirements.

If, at the time of passage of the ordinance codified in this division, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the zone subject to the other requirements of this division. If there is an area deficiency residential use shall be limited to a single-family or duplex residence. [Ord. 504 § 5.020, 1980; 1981 Compilation § 8-5:5.020.]

15.85.030 Exceptions to yard requirements.

The following exceptions to the front yard requirement of a dwelling are authorized for a lot in any zone:

- A. If there are dwellings on both abutting lots with front yards of less than the required

depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.

B. If the primary dwelling on one abutting lot has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and required front yard depth. [Ord. 504 § 5.030, 1980; 1981 Compilation § 8-5:5.030.]

15.85.040 Exceptions to building height limitations.

The following types of structures or structural parts are not subject to the building height limitations of this division: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, water towers, elevator shafts, windmills, conveyors, and other similar projections. [Ord. 504 § 5.040, 1980; 1981 Compilation § 8-5:5.040.]

15.85.050 Access.

All lots shall abut a street other than an alley for a width of at least 50 feet, except that on a circular turn-around at the end of a cul-de-sac, lots shall abut streets for a width of at least 25 feet. [Ord. 504 § 5.050, 1980; 1981 Compilation § 8-5:5.050.]

15.85.060 Vision clearance.

Vision clearance areas shall be provided with the following distances establishing the size of the vision clearance area:

A. In a residential zone the minimum distance shall be 30 feet except at intersections that include an alley, 10 feet.

B. In all other zones the minimum distance shall be 15 feet except at intersections which include an alley, 10 feet, except that when the angle of intersection between streets other than an alley is less than 30 degrees, the distance shall be 25 feet. [Ord. 504 § 5.060, 1980; 1981 Compilation § 8-5:5.060.]

15.85.070 Screening.

All commercial and industrial uses abutting a residential zone will be screened. An attractive, sight-obscuring fence, hedge, or earth berm between four and six feet high shall be provided along the abutting property line and maintained in an orderly manner. [Ord. 504 § 5.070, 1980; 1981 Compilation § 8-5:5.070.]

15.85.080 Demolition.

Buildings shall not be demolished before obtaining a demolition permit from the City. [Ord. 504 § 5.080, 1980; 1981 Compilation § 8-5:5.080.]

15.85.090 Site plan review.

A site plan review is required for all new construction. A fee, established by resolution of the City Council, shall be charged for a site plan review. [Ord. 644 § 2, 1996; 1981 Compilation § 8-5:5.090.]

15.85.100 Accessory uses.

Accessory uses shall comply with all requirements for the principal use except where specially modified by this division and shall comply with the following limitations:

- A. Height of Buildings. See specific zone.
- B. If the accessory structure is attached to the primary structure and is roofed and sided with the same material as the primary structure, then the height of the accessory structure may be increased to the height of the primary use.
- C. Fences and hedges shall not conflict with requirements of a vision clearance area.
- D. A greenhouse or hothouse may be maintained accessory to a dwelling. [Ord. 504 § 5.210, 1980; 1981 Compilation § 8-5:5.210.]

15.85.110 Drainage plans.

A. Drainage plans shall show how the drainage system will relate to natural features, be designed to minimize existing and potential drainage and erosion problems related to the development, and how natural drainage channels shall be kept open by indicating:

- 1. Existing drainage ways and how the development will use them.
- 2. Existing drainage ways and how the development will affect them.
- 3. Location of all proposed storm drain openings, catch basins, and/or dry wells.
- 4. Size and locations of all storm drains.
- 5. Location of all outflows.
- 6. Estimated peak flows at outflows and storm drain openings.

B. Drainage plans shall be provided for the following types of development:

- 1. Commercial.
- 2. Industrial.
- 3. Public.
- 4. Semi-public.
- 5. The following residential types:
 - a. Subdivision.
 - b. Major partitions.
 - c. Manufactured home subdivisions.
 - d. Manufactured dwelling park.
 - e. Multiple family development.
- f. All development in the special development zone. [Ord. 615 § 3, 1992; Ord. 504 § 5.310, 1980; 1981 Compilation § 8-5:5.310.]

15.85.120 Siting standards for property abutting the Calapooia River.

A. The City Administrator shall review any proposed land use action when any part of a lot or proposed lot adjoins the Calapooia River. The Administrator shall review the proposed request in relation to the following standards related to the protection of fish and wildlife habitats:

- 1. Whether the proposed request involves the removal of any existing trees or other forms of existing natural vegetation, such as shrubs, brush, plants, and grasses

between the stream channel and the topographic break at the top of the stream bank which might be harmful to existing fish and wildlife habitats;

2. Whether any form of use expressed in the proposed request might have a damaging impact on existing fish and wildlife habitats along the river.

B. If the City Administrator finds that damaging effects described in subsections (A)(1) and (2) of this section could occur from the proposed request, then the Administrator could impose the following conditions to any land use application approval in order to maintain, enhance and protect existing fish and wildlife habitats along the river:

1. Replanting of any existing trees and/or any other forms of existing natural vegetation which are removed during the development process;

2. Requirement of additional or specific setbacks from the water's edge or at the topographic break at the top of the stream bank;

3. Installation of fencing;

4. Establishment of a maximum density for structures.

C. The following practices are exempt from the conditions described in subsections (B) (1) through (4) of this section:

1. Removal of a tree that could become a threat to life or structures as defined by the City;

2. Removal of tansy ragwort, Canadian thistle, and other common weeds;

3. Construction of any accessory structure such as a pump house or storage shed.

This does not include an accessory use. [Ord. 525 § 1, 1981; 1981 Compilation § 8-5:5.410.]

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Chapter 15.90 Signs

Sections:

- [15.90.010](#) General authority.
- [15.90.020](#) Purpose.
- [15.90.030](#) Definitions.
- [15.90.040](#) Exempt signs.
- [15.90.050](#) General sign provisions.
- [15.90.060](#) Prohibited signs.
- [15.90.070](#) Sign regulations.
- [15.90.080](#) Nonconforming signs.
- [15.90.090](#) Authorized sign permit required.
- [15.90.100](#) Application and fee.
- [15.90.110](#) Appeal to City Council.
- [15.90.120](#) Nuisance abatement.
- [15.90.130](#) Penalties.

15.90.010 General authority.

A "Brownsville authorized sign permit" is required in all areas of the City of Brownsville with the exception of those signs specifically exempted pursuant to BMC [15.90.040](#). A no-fee permit must be obtained before any sign, except those specifically exempted, is erected, placed, painted, constructed, carved or otherwise given public exposure. The sign provisions of this division may be considered as a part of a larger application or separately. Applications shall be filed with the City staff on an appropriate form in the manner prescribed by the City. [Ord. 585 § 1, 1989; 1981 Compilation § 8-8.1.]

15.90.020 Purpose.

The purpose of this division is to promote safety and a quality visual environment that is compatible with the historic nature of the town, by applying standards for the design, illumination, placement and maintenance of signs. [Ord. 585 § 2, 1989; 1981 Compilation § 8-8.2.]

15.90.030 Definitions.

"Alterations" means any change in size, shape, method of illumination, position, location, construction or supporting structure of a sign.

"Direct illumination" means a source of external illumination directed toward such signs so that the beam of light falls upon the exterior surface of the sign and is shielded to prevent glare beyond the face of the sign.

"Flashing sign" means a sign incorporating intermittent electrical impulses to a source of illumination, or revolving in a manner which creates the illusion of flashing, or which changes color or intensity of illumination, including search lights.

"Freestanding sign" means any sign not attached to a building or other manmade structure.

"Neighborhood identification sign" means a sign located at the entry point to a single-family subdivision comprising not less than two acres, or identifying a multiple-family housing complex.

"Noncommercial flag or banner" means a paper, fabric or flexible plastic flag or banner, such as the flag of the national, state or local government, which contains or communicates no message relating to or suggesting support of any activity involving commerce or the transfer or exchange of goods or services.

"Off-premises sign" means any sign placed on property not owned or leased by the owner of the sign, or upon property owned or leased by the owner of the sign solely for the purpose of supporting the sign.

"Parcel" or "premises" means a tract of land under separate ownership, as depicted upon the county assessment rolls, and having frontage abutting on a public street.

"Permanent sign" means any sign which is placed at a particular location, or within 50 feet of a particular spot at least once a week for more than 26 consecutive weeks during any calendar year.

"Sign" means any outdoor device or medium affixed to property (including its structure, lighting, materials, and component parts) which by reason of its form, color, wording, symbol, design, and illumination, visually communicates, identifies, advertises, informs, or announces the subject thereof.

"Single event" means any activity that lasts no more than two weeks and occurs not more than once a year.

"Temporary sign" means any sign which is not a permanent sign. [Ord. 585 § 3, 1989; 1981 Compilation § 8-8.3.]

15.90.040 Exempt signs.

The following signs and devices shall not be subject to the provisions of this division:

- A. Noncommercial flags or banners.
 - B. On-premises signs in the industrial and volume commercial zones on buildable lots which:
 1. Have frontage on Highway 228; and
 2. Are legally existing at the time of adoption of the ordinance codified in this division.
 - C. Signs placed by local, state or federal governments for purposes of traffic control or construction, maintenance, or identification of roads, streets, highways or facilities.
- [Ord. 585 § 4, 1989; 1981 Compilation § 8-8.4.]

15.90.050 General sign provisions.

The following general sign provisions apply to all signs, except those exempt signs specifically listed in BMC [15.90.040](#), within the City:

- A. Signs shall be of rigid material, except for noncommercial flags or banners or single event signs.
- B. Sign graphics, including borders, must be carved, molded, applied, cast, painted or stained.
- C. All signs in residential zones, if lighted, must be by direct illumination.
- D. Projecting signs shall give a minimum vertical clearance from the ground or sidewalk of eight feet.
- E. All signs will be securely anchored and maintained to ensure public safety.
- F. Signs shall be maintained in a neat, clean manner.
- G. All lighted signs must be in a manner as to not disturb neighboring property or create safety or traffic hazards.
- H. All internally lit, molded plastic signs must conform to the style of the era 1880 to 1912. [Ord. 697 § 1, 2006; Ord. 585 § 5, 1989; 1981 Compilation § 8-8.5.]

15.90.060 Prohibited signs.

The following signs are prohibited in the areas governed by these regulations:

- A. Except for noncommercial flags or banners or single event signs, paper, fabric or flexible plastic signs, outside any building.
- B. Rotating or otherwise movable signs.
- C. Flashing signs.
- D. Freestanding signs more than six feet in height, measured from the established ground elevation of the placement site.
- E. Signs with a total sign area (total square footage of all sides) greater than one and one-half times the total lineal footage of the property line the sign is fronting.
- F. Signs placed on, affixed to, or painted on any motor vehicle, trailer or other mobile structure not registered, licensed and insured for use on public highways.
- G. Signs located, drawn, or placed upon a tree, rock, or other natural feature.
- H. Signs which obstruct the vision clearance area (as defined in the Brownsville zoning code) of a street or driveway intersection. Also, signs which obstruct the ingress or egress through any door, window, fire escape, standpipe, or like facility required or designated for safety or emergency use.
- I. Signs or sign structures which are determined by the Building Official to constitute a hazard to the public safety or health by reason of poor structural design or construction, inadequate maintenance, lack of repair, or dilapidation. [Ord. 585 § 6, 1989; 1981 Compilation § 8-8.6.]

15.90.070 Sign regulations.

A. Off-Premises Signs. Off-premises signs are allowed in all zones, subject to the following regulations, in addition to the other provisions of this division:

- 1. All off-premises signs that are visible within 660 feet of a state highway require an off-premises sign permit issued by the State Highway Division.
- 2. All off-premises signs must meet the following standards:

- a. They shall be located a minimum of five feet from the public right-of-way.
 - b. They shall not exceed eight square feet in area on each side.
 - c. One sign, visible to each direction of travel, is allowed.
 - d. Off-premises signs shall not be located within 100 feet of another off-premises sign.
 - e. Any application for an off-premises sign must be accompanied by a written statement of permission for the placement of the sign, signed by the owner of the property where the sign is to be located.
3. Temporary off-premises signs will not require a permit from the City of Brownsville.
4. Off-premises, single event signs will be allowed for a period of not more than 30 days prior to until seven days following the activities or events for which they are intended.
- B. On-Premises Signs.** On-premises signs are allowed, upon issuance of a sign permit, in all zones, subject to the following regulations, in addition to the other provisions of this division:
1. Temporary on-premises signs will not require a permit from the City of Brownsville.
 2. On-premises single event signs will be allowed for a period of not more than 30 days prior to, until seven days following the activities or events for which they are intended.
 3. Residential, permanent, on-premises signs, other than neighborhood identification signs, shall not exceed four square feet in area on each side.
 4. Residential, temporary, on-premises signs shall not exceed four square feet in area on each side. [Ord. 585 § 7, 1989; 1981 Compilation § 8-8.7.]

15.90.080 Nonconforming signs.

All signs existing on the effective date of the ordinance codified in this division and not conforming with the provisions of this division are hereby deemed nonconforming signs. Nonconformity shall not apply to safety-related elements.

A. No nonconforming sign shall be changed, expanded or altered in any manner which would increase the degree of its nonconformity; nor be structurally altered to prolong its useful life; nor be moved in whole or in part to any other location where it would remain nonconforming.

B. Termination of Nonconforming Signs.

1. **Immediate Termination.** Nonconforming signs which no longer serve a use as a sign for a currently ongoing or planned activity shall be terminated within 60 days after the effective date of the ordinance codified in this division, or after the activity ceases, whichever occurs first, except as otherwise expressly permitted by this division.

Termination of the nonconformity shall consist of removal of the sign or its alteration to eliminate fully all nonconforming features.

2. **Termination by Damage or Destruction.** Any nonconforming sign damaged or destroyed, by any means, to the extent of three-fourths of its replacement cost new, shall be terminated and shall not be restored. [Ord. 585 § 8, 1989; 1981 Compilation § 8-8.8.]

15.90.090 Authorized sign permit required.

A. No person shall place on, apply to the surface of any building, erect, construct,

place or install any permanent sign in the areas defined in BMC [15.90.010](#), unless an authorized sign permit has been issued by the City for such sign. Application for a sign permit shall be made by the permittee in accordance with BMC [15.90.100](#).

B. No person having a permit to erect a sign shall construct or erect same in any manner, except in the manner set forth in his approved application permit.

C. All authorized sign permits shall expire after six months unless the sign is constructed and installed according to this division. [Ord. 585 § 9, 1989; 1981 Compilation § 8-8.9.]

15.90.100 Application and fee.

A. Application for an authorized sign permit shall be filed with the City Recorder.

B. The applicant shall submit two copies of:

1. A rendering of the sign indicating its lettering, symbols, logos, materials, size, area, etc.

2. An elevation and plot plan indicating where the proposed sign will be located on the structure or lot, method of illumination, if any, and similar information.

C. Any sign except internally lit, plastic molded signs, meeting all of the requirements of this division, will be issued an authorized sign permit by the City Recorder within five working days of submittal.

D. All internally lit, plastic molded signs will be reviewed by a sign review committee consisting of three members of the Historic Review Board and two members of the Chamber of Commerce, and if found to meet all of the requirements of this division, will be issued an authorized sign permit by the City Recorder within 14 days of submittal.

E. No application fee is required under this section. [Ord. 585 § 10, 1989; 1981 Compilation § 8-8.10.]

15.90.110 Appeal to City Council.

An action or ruling of the City Recorder authorized by this division may be appealed to the City Council within 15 days after the decision has been rendered by filing written notice with the City Recorder. If no appeal is taken within the 15-day period, the decision will be final. If an appeal is filed, the Council shall receive a recommendation from the Planning Commission and shall hold a public hearing on the appeal. Notice of the public hearing shall be by one publication in a newspaper of general circulation in the City not less than five days nor more than 10 days prior to the date of the hearing.

A. An application fee for an appeal shall be filed by the applicant in an amount established by resolution of the Brownsville City Council. [Ord. 585 § 11, 1989; 1981 Compilation § 8-8.11.]

15.90.120 Nuisance abatement.

Any sign erected in violation of this division is hereby declared a nuisance and subject to abatement as provided in Chapter [8.30](#) BMC. [Ord. 585 § 12, 1989; 1981 Compilation § 8-8.12.]

15.90.130 Penalties.

- A. The failure of any person responsible to abate a sign as directed by the City Recorder to do so shall constitute a violation. If any person responsible has appealed the City Recorder's determination that the sign is a nuisance to the Council, he/she may not be cited under this section until the City Council has ruled on the appeal and the person responsible has failed to comply with the Council's ruling.
- B. Violation of this division is punishable by a fine not to exceed \$500.00. Each day in which any violation shall continue shall be a separate offense.
- C. The remedies provided in this division are cumulative and not exclusive and shall be in addition to any and all other remedies available to the City. [Ord. 585 § 13, 1989; 1981 Compilation § 8-8.13.]
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Chapter 15.95

Aggregate and Mineral Resource Development

Sections:

[15.95.010](#) Intent of aggregate and mineral resource development permit standards.

[15.95.020](#) A resource development permit and agreement.

[15.95.030](#) Permits for excavation expansion.

[15.95.040](#) Public hearing procedure for resource development permit.

[15.95.050](#) Criteria for resource development permit.

[15.95.060](#) Control of the development during operation and after completion.

15.95.010 Intent of aggregate and mineral resource development permit standards.

The resource development permit standards are intended to protect, regulate and encourage the prudent use of the City's aggregate and mineral resources for the benefit of the City. [Ord. 504 § 4.010(1), 1980; 1981 Compilation § 8-5:4.010(1).]

15.95.020 A resource development permit and agreement.

A development permit issued by the City Administrator shall be obtained prior to the issuance of a building permit. A development agreement between the City and the applicant shall detail how excavation and mining will occur, and how all requirements shall be met. If the City Administrator finds that a developer holding a development permit issued under this division is removing material from the ground contrary to the conditions set out in the development agreement, the permit may be revoked under notice and hearing as per these sections. [Ord. 504 § 4.010(2), 1980; 1981 Compilation § 8-5:4.010(2).]

15.95.030 Permits for excavation expansion.

When expanding excavations which were initiated before July 1, 1972, or which are going to be less than an acre in size, the developer shall provide reclamation plans and a financial guarantee acceptable to the City ensuring that the property will be reclaimed before a development or building permit is granted. This information shall be submitted to the State Department of Geology and Mineral Industries or the Division of State Lands for their review; the suggestions of these agencies shall be considered by

the City in making its decisions. [Ord. 504 § 4.010(3), 1980; 1981 Compilation § 8-5:4.010(3).]

15.95.040 Public hearing procedure for resource development permit.

A. Public Hearing. The Planning Commission shall hold a public hearing prior to authorizing any mining or drilling activity within the City limits. The hearing shall be held within 45 days after the Department of Geology and Mineral Industries or the Division of State Lands review comments are received.

B. Notice. Prior to a public hearing the City Administrator shall notify all parties that might be affected by the resource extraction. Notice shall be published in a newspaper having general circulation within the City of Brownsville at least once not less than five days and not more than 15 days prior to the hearing. Notice shall also be posted at City Hall, the City library and the post office. All abutting property owners shall be mailed notice. The cost of notification shall be borne by the applicant.

C. Permit Issuance. The City Administrator shall issue a development permit after a public hearing if, in the Planning Commission's judgement, the developer has met the requirements of this division and the development is not a threat to the public health, safety or welfare. The developer and the City Administrator shall then jointly sign the agreement.

D. Appeal. Any aggrieved party may appeal the decision of the Planning Commission to the City Council. The City Council shall review the appeal under the conditional use procedure. If no appeal is filed within 15 days of the Planning Commission's decision, the decision shall be final. [Ord. 504 § 4.010(4), 1980; 1981 Compilation § 8-5:4.010(4).]

15.95.050 Criteria for resource development permit.

A. A decision by the Planning Commission on an application for a resource development permit shall be based on the following criteria:

1. The developer shall show that the Department of Geology and Mineral Industries and/or the Division of State Lands have granted a permit, or that neither ORS chapter 571 nor ORS chapter 541 apply to the development by submitting either an exemption letter from the appropriate agency or a surface mining permit.
2. The developer shall show that the requirements of the Uniform Building Code will be met by submitting a copy of the building code application. If there are any conflicts, the more restrictive requirements shall apply.
3. Reclamation plans shall maximize the safety and revegetation of the reclaimed site and describe the transition of the site to a nonextractive use compatible to City plans.
4. The developer shall show that either:
 - a. The activity is not within the identified floodway of the Calapooia River by submitting a site map; or
 - b. The developer has met all the requirements of Chapter [15.05](#) BMC by submitting a flood hazard development permit or permit application.
5. The developer shall show that:
 - a. Excessive noise shall not be generated by the extractive process by vehicles

associated with the excavation at times local residents are at rest. No processing excavation or vehicular operation shall be permitted between 9:00 p.m. and 7:00 a.m. weekdays.

b. Particulate levels shall not exceed the Department of Environmental Quality standards.

c. Noise levels shall not exceed the Department of Environmental Quality standards.

d. The City shall be compensated if vehicular access on City-maintained streets to and from the site causes excessive or extreme roadway deterioration. The City may require submittal of a performance bond or other suitable financial guarantee.

e. The City and developer shall agree on which roads will be used as an access corridor to and from the property.

f. The site shall be sufficiently secure so that local residents are not endangered.

g. If the development abuts residential or commercial property or there is a residence within 1,000 feet of the development's property lines, buffering and screening will be provided at the rates in the following table.

[Ord. 504 § 4.010(5), 1980; 1981 Compilation § 8-5:4.010(5).]

15.95.060 Control of the development during operation and after completion.

A. The agreement as specified in BMC [15.95.020](#) shall continue to control the development during its operation and after operations have ceased. The following shall apply:

1. The City Administrator, when issuing a development permit for the activity, shall note the issuance on the recorded agreement.

2. After the development permit has been issued, the use of the land and all construction, excavation, modification or alteration of the site shall be governed by the approved agreement.

3. After the development permit has been issued, no change shall be made in development contrary to the agreement without approval of an amendment to the agreement except as follows:

a. Minor modifications of less than 10 percent to existing buildings, structures, or equipment, and excavation extensions less than 10 percent and less than one acre, may be authorized by the City Administrator if they are consistent with the purposes and intent of the agreement and do not increase the cubic footage of a building, structure or excavation.

b. Buildings, structures or equipment that are totally or substantially destroyed may be reconstructed or replaced without approval if they are in compliance with the purpose and intent of the agreement and are not larger than the original agreement.

4. An amendment to a completed agreement may be approved if it is appropriate because of changes in conditions that have occurred since the agreement 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.

5. No modification or amendment to an agreement is to be considered as a waiver of the covenants limiting the use of the land, buildings, structures, and improvements within the area of the agreement and all rights to enforce these covenants against any change permitted by this section are expressly reserved. [Ord. 504 § 4.010(6), 1980; 1981 Compilation § 8-5:4.010(6).]



Chapter 15.100

Planned Unit Developments

Sections:

- [15.100.010](#) **Purpose.**
- [15.100.020](#) **Criteria for approval.**
- [15.100.030](#) **Development standards.**
- [15.100.040](#) **Preliminary development plan.**
- [15.100.050](#) **Approval of the preliminary development plan.**
- [15.100.060](#) **Approval of the final development plan.**
- [15.100.070](#) **Control of the development after permit.**

15.100.010 Purpose.

The purpose of the planned unit development designation is to provide greater flexibility in development of land; encourage variety in the development pattern of the community; encourage mixed uses in an area which could not otherwise be efficiently and aesthetically developed as an integrated whole; encourage developers to use a creative approach in land development; conserve natural land features; facilitate a desirable aesthetic and efficient use of open space; create public and private common open spaces and encourage flexibility and variety in the location of improvements on lots and diversity in the use of land. The planned unit development is not intended to be simply a means of avoiding normal zoning requirements for a single use in a particular area. [Ord. 504 § 4.110(1), 1980; 1981 Compilation § 8-5:4.110(1).]

15.100.020 Criteria for approval.

The Planning Commission shall approve a planned unit development only if it finds that the planned unit development will satisfy standards of this chapter including the following:

- A. The planned unit development is an effective and unified treatment of the development possibilities on the project site while remaining consistent with the Comprehensive Plan and making provision for the preservation of natural features such as drainage channels, river banks, wooded cover and rough terrain.
- B. The planned unit development shall be compatible with the area surrounding the project site considering the location, arrangement, height and bulk of buildings; location and design of open space; the nature and location of transportation and parking facilities, and the proposed use of buildings and land.
- C. Financing is available to the applicant sufficient to assure completion of the planned

unit development.

D. The planned unit development is in conformance with all applicable policies of the Comprehensive Plan.

E. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.

F. The proposed utility and drainage facilities are adequate for the population densities and type of development proposed, and will not create a drainage or pollution problem outside the planned area. [Ord. 504 § 4.110(2), 1980; 1981 Compilation § 8-5:4.110 (2).]

15.100.030 Development standards.

A. Dimensional and Bulk Standards.

1. The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a planned unit development is proposed do not apply within a planned unit development.

2. If the spacing between main buildings is not equivalent to the spacing which would be required between buildings similarly developed under this division on separate parcels, other design features shall provide light, ventilation and other characteristics equivalent to that obtained from the spacing standards.

3. Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection outside the boundary lines of the development comparable to that otherwise required of development in the zone.

4. The maximum building height may exceed those building heights prescribed in the zone in which the planned unit development is proposed, only if surrounding open space within the planned unit development, building setbacks and other design features are used to avoid any adverse impact due to the greater height.

B. Size of the Planned Unit Development.

1. These size requirements apply to all zones except the special development zone.

2. The minimum acreage for any PUD shall be five acres.

3. The City Planning Commission may lower this size to a tract of land which will accommodate five or more units if they find that:

a. An unusual topographic, physical, archaeological, or historic feature or habitat of importance to the community exists on the site and can be preserved and still leave the landowner equivalent use of the land by a planned unit development.

b. The property is adjacent to a property which has been developed or redeveloped under a planned unit development, and this PUD will contribute to the maintenance of the amenities and values of the neighboring PUD.

C. Common Open Space.

1. No open area may be accepted as common open space within a planned unit development unless it meets the following requirements:

a. The location, shape, size and character of the common open space is suitable for the planned development.

b. The common open space is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the planned unit development,

considering its size, density, expected population, topography and the number and type of dwellings provided.

- c. Common open space may be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements to be permitted in common open space are appropriate to the uses which are authorized for the common open space.
- d. The development schedule which is part of the development plan coordinates the improvement of the common open space with the construction of residential dwellings in the planned unit development.
- e. If buildings, structures or other improvements are to be made in the common open space, the developer provides a bond or other adequate assurance that the buildings, structures and improvement will be completed. The City shall release the bond or other assurances when the buildings, structures and other improvements have been completed according to the development plan.

2. Land shown on the final development plan as common open space shall be conveyed under one of the following options:

- a. To a public agency which agrees to maintain the common open space and any buildings, structures or other improvements which have been placed upon it.
- b. To an association of owners or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.

3. No common open space may be put to a use not specified in the final development plan unless the final development 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 open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved.

4. If the common open space is not conveyed to a public agency, the covenants governing the use, improvement and maintenance of the common open space shall authorize the City to enforce their provisions.

D. Accessory Uses in a Planned Unit Development. In addition to the accessory uses typical of the primary uses authorized, accessory uses approved as a part of a planned unit development may include the following uses:

1. Golf course;
2. Private park, lake or waterway;
3. Recreation area;
4. Recreation building, clubhouse or social hall;
5. Commercial buildings. [Ord. 504 § 4.110(3), 1980; 1981 Compilation § 8-5:4.110(3).]

15.100.040 Preliminary development plan.

A preliminary development plan shall be prepared and shall include the following

information:

- A. A map showing street systems, lot or partition lines and other divisions of land for management, use or allocation purposes.
- B. Areas proposed to be conveyed, dedicated or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings and similar public and semi-public uses.
- C. A plot plan showing the approximate location of buildings, structures, and parking areas, sidewalks, roads, open space areas, other transportation facilities, and other improvements.
- D. Elevation and perspective drawings of the proposed structure.
- E. A development schedule indicating:
 1. The approximate date when construction of the project can be expected to begin.
 2. The stages in which the project will be built and the approximate date when construction of each structure can be expected to begin.
 3. The anticipated rate of development.
 4. The approximate dates when each stage in the development will be completed.
 5. The area, location and degree of development of common open space that will be provided at each stage.
- F. Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open space area.
- G. The following plans and diagrams, if the reviewing body finds that the planned unit development creates special problems:
 1. A landscaping and tree plan.
 2. A market analysis.
 3. Notations on how the circulation system shall meet the needs of the visually or physically handicapped.
- H. Information showing the relationship of the planned unit development to adjacent uses, both existing and proposed.
- I. A financial program which provides satisfactory evidence that the thoroughfare, parking area, sidewalks and other public facilities and utilities shall be completed as approved by the City. [Ord. 504 § 4.110(4), 1980; 1981 Compilation § 8-5:4.110(4).]

15.100.050 Approval of the preliminary development plan.

The procedure for submittal, review and approval of the preliminary development plan shall be the same as for conditional use permits as outlined in BMC [15.125.030](#). [Ord. 504 § 4.110(5), 1980; 1981 Compilation § 8-5:4.110(5).]

15.100.060 Approval of the final development plan.

- A. Within six months following the approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing in final form the information required in the preliminary plan. The Planning Commission may extend for six months the period for the filing of the final development plan.
- B. If the Planning Commission finds evidence of a material deviation from the

preliminary development plan, the Planning Commission shall advise the applicant to submit an application for amendment of the planned unit development. An amendment shall be considered in the same manner as an original application. [Ord. 504 § 4.110 (6), 1980; 1981 Compilation § 8-5:4.110(6).]

15.100.070 Control of the development after permit.

The final development plan shall continue to control the planned unit development after it is finished. The City Administrator when issuing a certificate of completion of the planned unit development shall note the issuance on the recorded final development plan. [Ord. 504 § 4.110(7), 1980; 1981 Compilation § 8-5:4.110(7).]



Chapter 15.105

Manufactured Homes and Recreational Vehicles

Sections:

[15.105.010](#) **Manufactured homes outside of manufactured dwelling parks.**

[15.105.020](#) **Manufactured home parks.**

[15.105.030](#) **Occupancy of recreational vehicles.**

15.105.010 Manufactured homes outside of manufactured dwelling parks.

A. Manufactured homes are permitted outright in the LDR, MDR and HDR zones, subject to the following conditions:

1. Placement Permit Required. Prior to the issuance of a manufactured home set-up permit, the owner or his authorized representative shall apply for and receive a placement permit from the City. The approved placement permit shall indicate that the manufactured home and its location conform to this division and to all other applicable state and local laws or administrative rules. An application for a placement permit shall be accompanied by:

a. A plot plan, drawn to scale, showing the proposed location of the manufactured home and accessory structures on the lot and including the exterior dimensions of the manufactured home and setbacks from all property lines.

b. Information indicating the dimensions of the floor area within the manufactured home, as well as the materials, design and necessary dimensions of the roof, foundation support systems, and perimeter crawl space enclosure.

c. Proposed utility installation specifications and drainage plans.

2. Placement Standards.

a. Unless the manufactured home is to be located in an approved manufactured dwelling park, only one manufactured home shall be permitted on a lot. The manufactured home shall be subject to the standards of the applicable zone, and the lot upon which the manufactured home is situated shall be landscaped and maintained as a permanent residence similar to the surrounding area.

b. The owner of the manufactured home shall be the owner of the lot upon which the manufactured home is placed.

c. The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.

d. The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

e. The manufactured home shall have exterior siding and roofing which in color,

material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

f. The manufactured home shall be placed on and securely anchored to a foundation and anchoring system which is in compliance with OAR 918-505-020 and 918-505-040.

g. The perimeter crawl space of the manufactured home shall be completely enclosed with skirting composed of concrete block, brick, or comparable material. The perimeter enclosure shall comply with skirting and ventilation requirements of OAR 918-505-050 and 918-505-060, including provisions for access openings and ventilation.

h. The manufactured homes shall be provided with gutters and downspouts to direct storm water away from the placement site.

i. A front porch and rear porch composed of wood or concrete shall be placed at the front and rear entries to the manufactured home. Each porch shall have an area of at least four feet by six feet. The porches shall comply with the applicable provisions of OAR 918-510-050.

j. The manufactured homes shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels of heat loss equivalent to the performance standards required of single-family dwellings constructed under the State Building Code as defined in ORS 455.010.

k. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade. If the elevation of the grade is not sufficient to allow for adequate drainage to daylight or an approved drainage system, the manufactured home should be set above grade and backfilled so the home is no more than a maximum of 12 inches above finished grade.

l. If the manufactured home is to be removed from its permanent supports, the owner of the property shall agree in writing to remove the supports, the manufactured home, and all additions thereto from the property, and to permanently disconnect and secure all utilities. This agreement shall authorize the City to perform the work and place a lien against the property for the cost of the work in the event the owner fails to accomplish the work within 30 days from the date the manufactured home is to be removed from its supports. This condition shall not apply in the event that a placement permit for a replacement manufactured home has been approved by the City within 30 days of the removal of the original manufactured home. The replacement shall conform in all respects with the provisions of this chapter.

3. Permit Approval. The City Administrator shall review the information submitted under subsection (A)(1) of this section within 15 days to determine if it conforms to the standards required by subsection (A)(2) of this section. If the administrator finds that the proposal meets the necessary requirements, then the placement permit will be issued and the applicant may proceed to obtain the utility connection permits and the manufactured home set-up permit.

a. The placement permit shall remain in effect for six months after the date of approval by the City. If the manufactured home has not been placed on the property by the end

of the six months, the owner may request an extension not to exceed an additional six months. The permit is automatically canceled if the manufactured home has not been placed on the property by the end of the second six-month time period.

4. Occupancy. The manufactured home shall not be occupied until all provisions of this division, except the landscaping requirements, have been met, and the City Administrator and building official certify that all City and state requirements have been met. [Ord. 618 § 7, 1993; 1981 Compilation § 8-5:4.210.]

15.105.020 Manufactured home parks.

A. Manufactured home parks are permitted outright in the LDR and MDR zones, subject to approval of a development permit. Each application for a manufactured home park development permit shall be accompanied by a development plan containing a plot plan, site details as related to topography, public utilities, parking, streets and landscaping, beginning and completion dates and any other reasonably related information. The development plans shall comply with the following minimum standards:

1. The minimum lot area shall be two and one-half acres.
2. The manufactured home park shall adjoin and have access from an arterial or collector street.
3. Two or more access ways shall connect with an adjacent publicly owned and maintained street.
4. The number of spaces for manufactured homes shall not exceed six for each acre of the total area.
5. Perimeter Treatment. Except as required for vision clearance and access ways, the outer perimeter of each park shall be improved with:
 - a. A maintained evergreen landscaping that is at least 10 feet in depth, will mature within three years, and reach at least five feet in height at maturity; or
 - b. A maintained site-obscuring fence or wall not less than five feet, and not more than six feet in height; or
 - c. A combination of the above.
6. Setbacks. A minimum setback for a manufactured home or accessory structure more than 30 inches above grade shall be:
 - a. Fifteen feet to any perimeter property line or interior access way.
 - b. Twenty feet to a public street.
 - c. Fifteen feet of separation between adjacent manufactured home spaces.
7. Utilities.
 - a. Electric, telephone and cable television services shall be underground within the manufactured home park but may be overhead in utility easements or public streets at the perimeter of the park.
 - b. Water, sanitary sewer and storm sewer installation shall conform to City and state standards.
8. Roadways and Walkways. Required access ways and walkways shall comply with the following:
 - a. Walkways shall connect each manufactured home site to access ways and

accessory buildings.

b. Minimum access way width is 24 feet except when connecting with a public street, and then it shall be 30 feet.

c. Minimum walkway width shall be three feet.

d. Roadways, access ways, driveways and walkways shall be A/C, concrete or other approved hard-surfaced material.

e. Access ways and walkways shall be adequately lighted.

9. Skirting shall be provided for all manufactured homes in a manufactured home park. The space between the ground surface and the manufactured home siding at the perimeter shall be enclosed with approved materials. Access and ventilation openings shall be placed in the foundation according to state standards.

10. Landscaping. Complete and permanent landscaping shall be maintained in good condition in all areas of the park used other than for parking, circulation, manufactured home placement and other buildings.

B. Permits and Approvals.

1. Building permits shall be obtained for all improvements including utility installations, drainage facilities, paving, walkways, landscaping and accessory buildings and structures.

2. Improvements in a manufactured home park, in addition to compliance with standards imposed by the provisions of this division, shall comply with the State of Oregon Department of Commerce Building Codes Division, Manufactured Dwelling Park Standards and Rules, in accordance with ORS 446.003 through 446.200; and BMC [15.30.050](#) and [15.30.060](#), improvement guarantees; BMC [15.40.010](#) through [15.40.030](#), design standards; Chapter [15.45](#) BMC, Improvements; and Chapter 15.60, Violation – Penalty, of the Brownsville development regulations concerning subdivisions and partitioning.

3. A manufactured home park shall not be occupied nor shall manufactured homes be installed until inspected and approved for compliance with this division and the State of Oregon Rules.

4. Manufactured homes shall be located as shown on the approved plot plan and installed to comply with the State of Oregon Department of Commerce Building Codes Division.

5. Separate manufactured dwelling installation, alteration or accessory structure permits shall be obtained before installation or construction is made and required inspections and approvals obtained before occupancy of a manufactured home.

C. Existing Manufactured Dwelling Parks. Manufactured dwelling parks existing at the time of adoption of the ordinance codified in this chapter shall be permitted to remain provided no additions, alterations or plot plan changes are made. A permit is required for additions, alterations or plot plan changes to an existing manufactured dwelling park constructed after adoption of the ordinance codified in this division. [Ord. 618 § 8, 1993; 1981 Compilation § 8-5:4.310.]

15.105.030 Occupancy of recreational vehicles.

A. Occupancy of recreational vehicles is permitted in the LDR, MDR and HDR zones,

subject to the following standards:

1. A person may occupy a recreational vehicle on private land with the consent of the owner of the land under the following conditions:
 - a. If the recreational vehicle is fully self-contained, it may be occupied for up to 30 days in any 90-day period on property occupied by, or contiguous to property occupied by, the owner of the property. An extension for a period not to exceed 15 days may be granted upon request and administrative review.
 - b. If the lot, tract or parcel of land upon which the recreational vehicle is situated has an area adequate to provide for parking the recreational vehicle so as not to infringe on any required setbacks in that particular zone, and all applicable standards of sanitation, water, plumbing and electrical and sewerage installations prescribed by the laws of this state and the rules issued thereunder, or set by local authorities, are met, the recreational vehicle may be occupied:
 - i. For up to 120 days in any consecutive 12-month period on property occupied by, or contiguous to property occupied by, the owner of the property; or
 - ii. By the owner of vacant property during the course of construction of a dwelling unit on the property, if a valid building permit is in effect for that dwelling unit. [Ord. 618 § 9, 1993; 1981 Compilation § 8-5:4.410.]
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Chapter 15.110 Secondary Residences

Sections:

[15.110.010](#) **Definition.**

[15.110.020](#) **Zoning.**

[15.110.030](#) **Occupancy requirements.**

[15.110.040](#) **Secondary residence standards.**

[15.110.050](#) **Certification of owner occupancy.**

[15.110.060](#) **Removal of secondary residence.**

15.110.010 Definition.

A "secondary residence" is a room or set of rooms in a structure detached from the primary residence, that had been designed or configured to be used as a separate dwelling unit, generally including living, sleeping, kitchen and bathroom facilities. [Ord. 680 § 1, 2002; 1981 Compilation § 8-5:4.060(1).]

15.110.020 Zoning.

Secondary residences may be permitted in any residential zone. [Ord. 680 § 1, 2002; 1981 Compilation § 8-5:4.060(2).]

15.110.030 Occupancy requirements.

One of the dwelling units on a property shall be occupied by one or more owners of the property as the owner's permanent and principal residence. The owner(s) may live in either the main or secondary residence and must have a 50 percent or greater interest in the property. The owner(s) must live in the structure for more than six months in each calendar year. The City Administrator may waive this requirement for temporary absences of one year or less, where the secondary residence has been a permitted use for at least two years and the owner submits proof of absence from the Linn County area and an intent to return. [Ord. 680 § 1, 2002; 1981 Compilation § 8-5:4.060 (3).]

15.110.040 Secondary residence standards.

- A. The maximum size of any secondary residence shall be no greater than 800 square feet of interior floor space.
- B. A single-family dwelling may have no more than one secondary residence and only one secondary residence shall be allowed per tax lot. If the secondary residence is a

separate structure, the secondary residence shall be separated from the primary residence by a minimum of six feet.

C. Any structure serving as a secondary residence must satisfy all setback and other requirements for the zone in which it is located, and must meet all relevant building code and fire safety requirements.

D. Two parking places shall be provided for the secondary residence. These spaces may be in tandem.

1. Required parking shall not be located in the front yard.

2. Required parking shall not be located in a side setback abutting a street or the first 10 feet of a yard abutting a street.

E. Notwithstanding any other height limitations elsewhere in this division, for the secondary residence the ridge of pitched roofs with a minimum slope of 6:12 may extend up to 28 feet. The ridge of pitched roofs with a minimum slope of 4:12 may extend up to 23 feet. All parts of the roof above 18 feet shall be pitched.

F. The maximum lot coverage for the principal residence and all accessory structures, including the secondary residence, shall not exceed 30 percent.

G. The structure serving as a secondary residence shall be constructed in a substantially similar style as the primary residence, and exterior materials such as siding shall be similar to those used on the primary residence.

H. Structures serving as secondary residences shall comply with all building code requirements for residential use.

I. The secondary residence may utilize the water and sewer connections for the main residence in most cases. However, if the layout and size of the property is such that there is a reasonable possibility of the secondary residence being partitioned onto a separate tax lot in the future, separate connections may be required, and such connections shall be laid out to allow for such partitioning. When a secondary residence is connected through the water and sewer connections of the primary residence the property shall be billed in the same manner as for a duplex with a single water meter.

J. Variances from the requirements applicable to the zoning district will not be granted by the Planning Commission for the construction of a secondary residence. [Ord. 680 § 1, 2002; 1981 Compilation § 8-5:4.060(4).]

15.110.050 Certification of owner occupancy.

A. Prior to using any structure as a secondary residence, the owner shall apply to the City Administrator for a permit authorizing such use. The application shall contain such information as the City may require to determine whether the application satisfies all relevant criteria. The City Council may set a fee for this permit adequate to cover the cost of processing and issuing the permit. For new structures, no building permit may be issued until such permit authorizing a secondary residence has been issued. For existing structures being converted to residential use, the applicant shall obtain a special inspection from the Building Department certifying that the structure satisfies all residential standards before a permit may be issued. In the case that the City Administrator denies an application for a secondary residence permit, the decision may

be appealed to the City Council. An appeal shall be filed within 14 days of the City Administrator's final action, and in such form as the City may require. The City Council may set a fee for appeals.

B. After a permit authorizing a secondary residence has been issued, the owner shall record as a deed restriction in the Linn County Recorder's Office a certification by the owner under oath in a form proved by the City that one of the dwelling units is occupied by the owner(s) of the property as the owner(s) principal and permanent residence. When ownership of a single-family residence with an approved secondary residence changes, the new owner(s) shall either record a new owner occupancy certification or remove the secondary residence. Failure to record a new certificate or remove the secondary residence within 60 days of transfer of ownership, falsely certifying owner occupancy, or failure to comply with the terms of owner occupancy certification shall be considered violations of the zoning code, and subject to the penalties listed herein. [Ord. 680 § 1, 2002; 1981 Compilation § 8-5:4.060(5).]

15.110.060 Removal of secondary residence.

If an owner wishes to remove a secondary residence, the owner shall:

A. Remove the kitchen and all food preparation and storage areas, including all cooking appliances, refrigerators, dishwashers and any special wiring or gas plumbing for them, and the kitchen sink and cabinets; or

B. Remove either the toilet or the bathtub/shower from the bathroom, including the plumbing serving them; and

C. Arrange for an inspection of the structure by a representative of the City to document that the work has been completed;

D. After a secondary residence has been removed, it may not be reoccupied until it has been inspected by the Linn County Building Department to certify that it complies with residential occupancy standards. [Ord. 680 § 1, 2002; 1981 Compilation § 8-5:4.060(6).]

Chapter 15.115 Off-Street Parking and Loading

Sections:

- [15.115.010](#) Requirements.
- [15.115.020](#) Minimum space requirements.
- [15.115.030](#) Standards.
- [15.115.040](#) Parking plan.
- [15.115.050](#) Parking construction.
- [15.115.060](#) Design requirements.
- [15.115.070](#) Loading facilities.

15.115.010 Requirements.

Off-street parking and loading shall be provided as specified in this chapter. [Ord. 504 § 5.110(1), 1980; 1981 Compilation § 8-5:5.110(1).]

15.115.020 Minimum space requirements.

The minimum off-street parking space requirements are as follows:

A. Residential type of development and number of parking spaces:

Single-family dwelling	per dwelling unit
Multifamily dwelling	per 2 dwelling units
Residential hotel, rooming or boarding house or club	per 3 guest rooms
Hotel or motel	per guest room or suite (plus 1 per 2 employees)
Mobile home park	per mobile home site plus 1 per 2 sites for guest parking at a convenient location
Planned unit development	In addition to the requirements for dwelling units, 1 per 2 units for guest parking at a convenient location

B. Commercial type of development and number of parking spaces:

General retail or personal service	per 200 sq. ft. floor area
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Furniture or appliance store	per 500 sq. ft. floor area
Auto, boat or trailer sales, or nursery	per 1,000 sq. ft. floor area plus 1 per 2 employees
Barber shop or beauty shop	per 100 sq. ft. floor area
General, professional or banking office	per 300 sq. ft. floor area
Medical or dental office or clinic	per 200 sq. ft. floor area
Eating or drinking establishment	per 100 sq. ft. floor area
Theater, gymnasium, racetrack, stadium or similar use	per 4 seats or 8 ft. bench length
Bowling alley	1 per lane
Skating rink or dance hall	per 100 sq. ft. floor area, plus 1 per 2 employees
Amusement park	per 1,000 sq. ft. floor area plus 1 per 2 employees
Service station	per 2,000 sq. ft. lot area

C. Institutional, public and quasi-public type of development and number of parking spaces:

Child care center or kindergarten	per 2 employees plus 1 per 5 children
School, elementary or junior high	per teacher
School, high school	per classroom plus 1 per 10 students
College, university or trade school	per classroom plus 1 per 5 students
Library	per 400 sq. ft. floor area plus 1 per 2 employees
Church, chapel, mortuary, auditorium	per 4 seats or 8 ft. bench length
Nursing or convalescent home	per 2 beds for patients and residents
Hospital	per 2 beds
Golf course	1 per hole

D. Industrial type of development and number of parking spaces:

Storage, warehouse, or manufacturing establishment, air, rail or trucking freight terminal	1 per employee on largest shift
Public utility (gas, water, telephone, etc.)	1 per 2 employees on largest shift plus 1 per company vehicle

E. Requirements for a building or development not specifically listed herein shall be determined by the City Administrator based upon the requirements of comparable uses listed. The decision of the City Administrator may be appealed to the Planning

Commission. [Ord. 504 § 5.110(2), 1980; 1981 Compilation § 8-5:5.110(2).]

15.115.030 Standards.

A. Parking spaces in a public street, alley or parking lot shall not be eligible to fulfill any part of the parking requirements, except that they may be considered in the OTC zone.

B. Except for residential uses, required parking facilities may be located on an adjacent parcel of land or separated only by an alley, provided the adjacent parcel is maintained in the same ownership as the use it is required to serve. In a residential zone, required parking shall not be located in a required front or side yard setback area abutting a public street.

C. In the event that several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements for the several uses computed separately.

D. Required parking facilities of two or more uses, structures or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that it can be shown by the owners or operators that the need for the facilities does not materially overlap (e. g., uses primarily of a daytime versus a nighttime use) and provided that such right of joint use is evidenced by a deed, lease, contract or similar written instrument establishing such joint use.

E. Required parking shall be available for parking of operable passenger vehicles of residents, customers and employees only, and shall not be used for the storage or display of vehicles or materials. [Ord. 618 § 10, 1993; Ord. 504 § 5.110(3), 1980; 1981 Compilation § 8-5:5.110(3).]

15.115.040 Parking plan.

A plan drawn to scale, indicating how the off-street parking and loading requirement is to be fulfilled, shall accompany the application for an occupancy permit. The plan shall show all those elements necessary to indicate that these requirements are being fulfilled and shall include but not be limited to:

A. Delineation of individual parking spaces.

B. Circulation area necessary to serve spaces.

C. Access to streets, alleys and properties to be served.

D. Curb cuts.

E. Dimensions, continuity and substance of screening.

F. Grading, drainage, surfacing and subgrading details.

G. Delineations of all structures or other obstacles to parking and circulation on the site.

H. Specifications as to signs and bumper guards. [Ord. 504 § 5.110(4), 1980; 1981 Compilation § 8-5:5.110(4).]

15.115.050 Parking construction.

Required parking spaces shall be improved and available for use at the time of final building inspection. [Ord. 504 § 5.110(5), 1980; 1981 Compilation § 8-5:5.110(5).]

15.115.060 Design requirements.

Driveways and turn-arounds providing access to parking areas shall conform to the following provisions:

- A. A driveway for a single-family or two-family dwelling shall have a minimum width of 10 feet.
- B. Except for a single-family or two-family dwelling, groups of more than three parking spaces shall be provided with adequate aisles or turn-around areas so that all vehicles may enter the street in a forward manner.
- C. Except for a single-family or two-family dwelling, more than three parking spaces shall be served by a driveway designed and constructed to facilitate the flow of traffic on and off the site, with due regard to pedestrian and vehicle safety, and shall be clearly and permanently marked and defined. In no case shall two-way and one-way driveways be less than 20 feet and 12 feet in width, respectively.
- D. Driveways, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 12 feet for their entire length and width but such clearance may be reduced in parking structures.
- E. Service drives to public streets shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points 20 feet from their intersection. No obstruction over 24 inches in height that has a cross section over 12 inches shall be permitted in such an area.
- F. The following off-street parking development and maintenance shall apply in all cases, except single-family and two-family dwellings.
 1. Parking areas, aisles and turn-arounds shall be constructed to City standards.
 2. Parking areas, aisles and turn-arounds shall have provisions made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public rights-of-way and abutting private property.
 3. Approaches shall be constructed to City standards. In the event that a street is not paved, the approach may be maintained to the same standard as the street until the street is paved.
 4. Spaces shall be permanently and clearly marked.
 5. Wheel stops and bumper guards shall be provided where appropriate for spaces abutting a property line or building, and no vehicles shall overhang a public right-of-way or other property line.
 6. Where parking abuts a public right-of-way, a wall or screen planting shall be provided sufficient to screen the parking facilities but without causing encroachment into vision clearance areas. Except in residential areas, where a parking facility or driveway is serving other than a one- or two-family dwelling and is located adjacent to residential, agricultural or institutional uses, a site-obscuring fence, wall or evergreen hedge shall be provided on the property line. Such screening shall be maintained in good condition and protected from being damaged by vehicles using the parking area.
 7. Except for a residential development which has landscaped yards, parking facilities shall include landscaping to cover not less than seven percent of the area devoted to parking facilities. The landscaping shall be uniformly distributed throughout the parking area and may consist of trees, shrubs, ground cover or related material.

8. Artificial lighting which may be provided shall be deflected so as not to shine directly into adjoining dwellings or other types of living units and so as not to create a hazard to the public use of a street. [Ord. 504 § 5.110(6), 1980; 1981 Compilation § 8-5:5.110(6).]

15.115.070 Loading facilities.

A. The minimum area required for commercial and industrial loading spaces is as follows:

1. Two hundred fifty square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
2. Five hundred square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
3. Seven hundred fifty square feet for buildings in excess of 50,000 square feet of gross floor area.

B. The required loading area shall not be less than 10 feet in width by 25 feet in length and shall have an unobstructed height of 14 feet.

C. Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.

D. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of a school having a capacity greater than 25 students.

E. All loading spaces shall be situated so as to minimize backing onto public rights-of-way. [Ord. 504 § 5.110(7), 1980; 1981 Compilation § 8-5:5.110(7).]

Chapter 15.120

Nonconforming Uses and Structures

Sections:

[15.120.010](#) Continuation of nonconforming use or structure.

[15.120.020](#) Nonconforming structure.

[15.120.030](#) Discontinuance of a nonconforming use.

[15.120.040](#) Change of a nonconforming use.

[15.120.045](#) Review process.

15.120.010 Continuation of nonconforming use or structure.

A legally existing nonconforming use or structure may be continued in compliance with this division with the exception of single-family dwellings, which may be altered or expanded in compliance with BMC [15.120.030](#)(B). All other nonconforming uses or structures may only be altered or expanded in conformance with BMC [15.120.040](#) and [15.120.045](#). [Ord. 565 § 1, 1986; Ord. 504 § 6.010, 1980; 1981 Compilation § 8-5:6.010.]

15.120.020 Nonconforming structure.

A structure conforming as to use but nonconforming as to height, setback, or coverage may be altered or extended providing the alteration and extension do not result in a violation of this division. [Ord. 565 § 1, 1986; Ord. 504 § 6.020, 1980; 1981 Compilation § 8-5:6.020.]

15.120.030 Discontinuance of a nonconforming use.

A. Except for single-family dwellings, if a nonconforming use involving a structure is discontinued from active use for a period of one year, further use of the property shall be for conforming use. Nonconforming single-family dwellings may return to residential use after being used for commercial, public, or other nonresidential use.

B. A single-family dwelling that existed on or prior to the effective date of the ordinance codified in this division shall be allowed to be altered, remodeled, expanded, or enlarged in compliance with the applicable sections of this division. Single-family dwellings may be reconstructed if unintentionally destroyed, if reconstruction commences within one year from the date of destruction.

C. If a nonconforming use not involving a structure is discontinued for a period of one year, further use of the property shall be a conforming use. [Ord. 615 § 3, 1992; Ord. 565 § 1, 1986; Ord. 504 § 6.030, 1980; 1981 Compilation § 8-5:6.030.]

15.120.040 Change of a nonconforming use.

Pursuant to the provisions of BMC [15.120.045](#), and the conditional use procedures (Chapter [15.125](#) BMC), a nonconforming use may be increased in size, altered, or expanded within a building or upon the same lot. [Ord. 565 § 1, 1986; Ord. 504 § 6.040, 1980; 1981 Compilation § 8-5:6.040.]

15.120.045 Review process.

A. All applicable provisions of the conditional use procedure (See Chapter [15.125](#) BMC) shall apply in addition to the following criteria for any request considered under BMC [15.120.040](#) and this section:

1. An alteration or expansion in the use of land or a structure by a nonconforming use shall only be permitted if, on the basis of the application, investigation, testimony, and evidence submitted, findings and conclusions show that the location, size, design, and operating characteristics of the proposal shall have minimal adverse impacts on the livability, value, and appropriate development of abutting properties and the surrounding area.
2. All changes, additions, or expansions shall comply with all current development requirements and conditions of this division and the Oregon State Specialty Codes.
3. Additions to buildings will provide for storage of necessary equipment, materials, and refuse rather than create a need for additional outside storage.

B. Prior to filing a request for modification of a nonconforming use, building, or lot, a pre-application conference shall be held with the City Planner where the applicant shall be advised of the information required and the procedures to be followed. The filing procedure, as found in Chapter [15.125](#) BMC, Conditional Uses, shall be followed for the public review required by this section. [Ord. 565 § 1, 1986; 1981 Compilation § 8-5:6.045.]

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Chapter 15.125 Conditional Uses

Sections:

[15.125.010](#) Authorization to grant or deny conditional uses.

[15.125.020](#) Conditions which may be placed on a conditional use permit.

[15.125.030](#) Procedure for taking action on a conditional use application.

[15.125.040](#) Time limit on permit for conditional use.

[15.125.050](#) Standards governing conditional uses.

15.125.010 Authorization to grant or deny conditional uses.

A conditional use listed in this division shall be permitted, altered or denied in accordance with the standards in this chapter. In the case of a use existing prior to the effective date of the ordinance codified in this chapter and classified in this chapter as a conditional use, a change in the use or in lot area, or an alteration of structure shall conform with the requirements for conditional use and is subject to review, application and fee in the same manner as a newly proposed conditional use. In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh its appropriateness and desirability for 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, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable.

A. The proposal shall be consistent with the applicable policies of the Comprehensive Plan, the applicable provisions of the zoning code and other applicable policies, regulations and standards adopted by the City of Brownsville.

B. The location, size, design and operating characteristics of the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area, considering such factors as:

1. Location, size and bulk of buildings.
2. Location, size and design of parking areas.
3. Screening, landscaping, exterior lighting, hours of operation, vehicular access and similar factors.

C. The proposal will preserve those historical, archeological, natural and scenic assets of significance to the community and the surrounding area.

D. The proposal will not place an excessive burden on streets, sewage, water supply, drainage systems, parks, schools or other public facilities to the area. [Ord. 644 § 1, 1996; Ord. 618 § 11, 1993; Ord. 567A § 10, 1987; Ord. 504 § 7.010, 1980; 1981 Compilation § 8-5:7.010.]

15.125.020 Conditions which may be placed on a conditional use permit.

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this division, additional conditions which it finds necessary to enforce the Comprehensive Plan and to otherwise protect the best interest of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

- A. Limiting the manner in which the use is conducted, including restricting the time a certain activity may take place and establishing restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- B. Establishing a special yard or other open space or lot area or dimension.
- C. Limiting the height, size or location of a building or other structure.
- D. Designating the size, number, location and nature of vehicle access points.
- E. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.
- F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck loading area.
- G. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding.
- I. Designating the size, height, location and materials for fences, walls or screening.
- J. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- K. Requiring ongoing maintenance of buildings and grounds and specifying procedures for assuring maintenance.
- L. Providing internal property improvements, such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, recreation areas, landscaping, fencing and screening, in order to enhance the area and protect adjacent properties. [Ord. 504 § 7.020, 1980; 1981 Compilation § 8-5:7.020.]

15.125.030 Procedure for taking action on a conditional use application.

The following procedure for taking action on a conditional use application shall be as follows:

- A. A property owner may initiate a request for a conditional use by filing an application with the City.
- B. Two weeks prior to the Planning Commission hearing, the City Administrator shall post notice of the meeting at City Hall, the post office, and the City library. Twenty days prior to the hearing date, notice of the hearing shall be mailed to all owners of record of property within 200 feet of the exterior boundaries of the property for which the

conditional use has been requested. The hearing notice shall also be published in a newspaper of general circulation in the City at least twice within the two weeks prior to the hearing. Failure to receive notice does not invalidate any proceedings in connection with this application. If it is required that a state, federal, local or private agency review the conditional use permit, the agency shall be given a minimum of 20 days to submit its comments.

C. The Planning Commission shall hold a public hearing on the conditional use application. The hearing shall be scheduled within 60 days after the request for conditional use is received.

D. Within five days after a decision has been rendered on a conditional use application, the City Administrator shall provide the applicant with written notice of the decision.

E. An action or ruling of the Planning Commission may be appealed to the City Council as provided in BMC [15.75.020](#). [Ord. 618 § 12, 1993; Ord. 504 § 7.030, 1980; 1981 Compilation § 8-5:7.030.]

15.125.040 Time limit on permit for conditional use.

Authorization of a conditional use shall be void after two years or such lesser time as the authorization may specify unless substantial construction has taken place.

However, the Planning Commission may extend authorization for an additional period not to exceed one year on request. [Ord. 504 § 7.040, 1980; 1981 Compilation § 8-5:7.040.]

15.125.050 Standards governing conditional uses.

In addition to the standards of the zone in which the conditional use is located, and the other standards of this division, conditional uses shall meet the following standards:

A. Home Occupations. A decision for approval of a home occupation shall be based on findings related to the following:

1. The building may be constructed, altered, or changed internally to accommodate the requirements of the home occupation, but the external features of the building shall be the same as those of a residence or accessory building and shall in no way be constructed, altered or changed to resemble a commercial or industrial building.
2. There shall be no exterior storage of materials associated with the home occupation.
3. A home occupation may serve as the base or headquarters of any operation, profession, occupation or business which takes place at any location, or uses or employs no more than two persons other than the members of the family residing on the premises, provided the residential character of the building is maintained and does not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
4. No home occupation shall be allowed which requires special permits from the Department of Environmental Quality or any other state, federal or local governmental agency having appropriate regulatory jurisdiction related to air or water quality or to noise.
5. Any existing home occupation operating without a conditional use permit issued by

the City will be a nonconforming use which may not expand or otherwise operate beyond or above the present level. [Ord. 618 § 14, 1993; Ord. 567A § 9, 1987; Ord. 504 § 7.050, 1980; 1981 Compilation § 8-5:7.050.]



Chapter 15.130 Variances

Sections:

- [15.130.010](#) Authorization to grant or deny variances.
- [15.130.020](#) Conditions for granting a variance.
- [15.130.030](#) Procedure for taking action on a variance application.
- [15.130.040](#) Time limit on permit for a variance.

15.130.010 Authorization to grant or deny variances.

The Planning Commission may authorize variances from the requirements of this division where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this division would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance the Planning Commission may attach conditions which it finds necessary to protect the best interest of the surrounding property or neighborhood and to otherwise achieve the purpose of this division. [Ord. 504 § 8.010, 1980; 1981 Compilation § 8-5:8.010.]

15.130.020 Conditions for granting a variance.

A variance shall be granted by the Planning Commission when it can be shown that all of the following conditions exist:

- A. Exceptional or extraordinary conditions apply to the property which do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control.
- B. The property rights of the owner would otherwise be substantially curtailed without a variance.
- C. The authorization of the variance shall not be materially detrimental to the purposes of this division, be injurious to property in the zone or vicinity, or any City development plan or policy.
- D. The variance requested is the minimum variance from the provision and standards of this division which will alleviate the hardship. [Ord. 504 § 8.020, 1980; 1981 Compilation § 8-5:8.020.]

15.130.030 Procedure for taking action on a variance application.

A. Initiation of a Variance. A request for a variance may be initiated by a property owner or his/her authorized agent by filing an application with the City Administrator upon forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The application shall be accompanied by a fee.

B. Notice of Public Hearing on a Variance. Before action is taken on a request for a variance, it shall be considered by the Planning Commission at a public hearing within 60 days after the filing of an application. Twenty days prior to the date of the hearing, notice of the hearing shall be mailed to all owners of record of property within 200 feet of the exterior boundaries of the property for which the variance has been requested. Failure to send notice to a person specified in this section or failure of a person to receive the notice shall not invalidate any proceedings in connection with the application for a variance. Notice shall also be posted at City Hall, the post office and the City library and published in a newspaper of general circulation in the City twice within the two weeks prior to the hearing. If it is required that a state, federal, local or private agency review the variance application, the agency shall be given a minimum of 20 days to submit its comments.

C. Recess of Hearing by Commission. The Commission may recess a hearing on a request for a variance in order to obtain additional information or to serve further notice upon other property owners or persons who it decides may be interested in the proposed variance. Upon recessing for this purpose, the Commission shall announce the time and date when the hearing will be resumed.

D. Action of the Commission. The Commission may attach conditions to an authorized variance which it feels are necessary to protect the public interest, and carry out the purpose of this division. The City Administrator shall notify the applicant in writing of the Commission's action within seven days after a decision has been made.

E. Appeal to the City Council. An action or ruling of the Planning Commission may be appealed to the City Council as provided in BMC [15.75.020](#). [Ord. 618 § 13, 1993; Ord. 504 § 8.030, 1980; 1981 Compilation § 8-5:8.030.]

15.130.040 Time limit on permit for a variance.

Authorization of a variance shall be void after two years or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year on request. [Ord. 504 § 8.040, 1980; 1981 Compilation § 8-5:8.040.]

Chapter 15.135

Amendments to the Zoning Code

Sections:

- [15.135.010](#) Authorization to initiate amendments.
- [15.135.020](#) Procedure for taking action on amendments.
- [15.135.030](#) Record of amendments.

15.135.010 Authorization to initiate amendments.

An amendment to the text or the zoning map of this zoning code may be initiated by the City Council, by the Planning Commission, or by application of a property owner or his/her authorized agent. The Planning Commission shall, within 40 days after a hearing, recommend to the Council approval, disapproval or modification of the proposed amendment. [Ord. 504 § 9.010, 1980; 1981 Compilation § 8-5:9.010.]

15.135.020 Procedure for taking action on amendments.

A. Application and Fee. An application for amendment shall be filed with the City Administrator. The application shall be accompanied by a fee.

B. Planning Commission Public Hearing on an Amendment. Before taking action on a proposed amendment, the Planning Commission shall hold a public hearing. The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed amendment. Upon recessing for this purpose, the Commission shall announce the time and date when the hearing will be resumed.

C. Notice of Public Hearing. Notice of time and place of the public hearing before the Planning Commission and the purpose of the proposed amendment shall be given by the City Administrator in the following manner:

1. If an amendment to the zoning map including an area less than 10 acres is proposed, the notice shall be by two publications in a newspaper of general circulation in the City at least twice within the two weeks prior to the date of hearing. Notice shall be posted at City Hall, City library and the post office. Notice shall be mailed to owners of property within five days but not more than 20 days prior to public hearing. Notice shall be mailed to owners of property within lines parallel to and 300 feet from the exterior boundaries of the property involved, using for this purpose the names and addresses of the owners as shown upon the records of the County Assessor. Failure to send a notice to a person specified in this section or failure of a person to receive the notice shall not invalidate any proceedings in connection with the proposed change.
2. If an amendment to the text of this division or a change in zone of an area of 10

acres or more is proposed, the notice shall be by the publication in a newspaper of general circulation in the City once a week for three consecutive weeks prior to the hearing, in addition to posting the notice at City Hall, City library and the post office.

D. Criteria for Findings of Fact. Upon review of all pertinent information and public input the Planning Commission shall make findings which are based on the following criteria:

1. Consistency of the amendment with the applicable provisions and policies of the Comprehensive Plan.
2. Consistency of the amendment with the applicable provisions of this division and with the zoning map.
3. Consistency of the amendments with other City ordinances and plans.

E. Planning Commission Action. The Planning Commission shall make a recommendation on the proposed amendment which is based on the findings listed in subsection (D) of this section. The recommendation shall be submitted to the City Council for final action.

F. Hearing by Council. The Council shall hold a public hearing at which time the Council shall review the recommendation and findings of the Planning Commission and the record of the hearing. The Council shall then make a decision based on findings related to the criteria as listed in subsection (D) of this section. If the Council makes findings that the proposal is not in conformance with the above listed criteria the amendment shall not be approved. The Council may adopt the findings made by the Planning Commission or establish findings of its own. Notice of hearings before the Council shall be the same as the Planning Commission notice. The City Council may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed amendment. [Ord. 504 § 9.020, 1980; 1981 Compilation § 8-5:9.020.]

15.135.030 Record of amendments.

The City Recorder shall maintain a record of amendments of the text and map of the ordinance codified in this division in a form convenient for the use of the public. [Ord. 504 § 9.030, 1980; 1981 Compilation § 8-5:9.030.]

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