

**CITY OF INDEPENDENCE
DEVELOPMENT CODE**

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SUBCHAPTER 10

GENERAL PROVISIONS

10.005 Title

This ordinance shall be known as the Independence Zoning Ordinance

10.010 Purpose

The purpose of this ordinance is to provide procedures for dividing the City of Independence into zones and to provide requirements governing the use of land within those zones. Such zones shall be established in accordance with a comprehensive plan and shall be designed to implement that plan.

10.015 Authority

This zoning ordinance is established under the provisions of Oregon Revised Statutes, Chapter 222.

10.020 Compliance With Zoning Ordinance

Land may be used only as this ordinance permits. A structure or part of a structure may be constructed, erected, enlarged, or used only as this ordinance permits.

10.025 Zone Designations

The City of Independence is hereby divided into zones. The zones established by this ordinance shall be as follows:

- | | |
|--|-------|
| A. Single-Family Residential | (RS) |
| B. Limited Multi-Family Residential | (RM) |
| C. Multi-Family Residential | (RM) |
| D. Commercial Office | (CO) |
| E. Commercial Highway | (CH) |
| F. Commercial Retail | (CR) |
| G. Industrial Park | (IP) |
| H. Light Industrial | (IL) |
| I. Heavy Industrial | (IH) |
| J. Public Services | (PS) |
| K. Greenway Development District | (GD) |
| L. Agricultural | (AG) |
| M. Residential Single Family Airpark Overlay | (RSA) |

10.030 Official Zoning Map

A. The boundaries for each zone listed in this ordinance shall be identified on the official zoning map of the City of Independence, hereby adopted as Exhibit A.

B. The official zoning map shall be dated with the effective date of this ordinance and signed by the mayor and the chairperson of the City Planning Commission. The City Recorder or authorized representative shall maintain the official zoning map.

C. Whenever any uncertainty exists as to the boundary of a district shown on the official zoning map, the following regulations shall apply:

1. Where a boundary line is shown as following a street or alley, it shall be construed to follow the center line of such right-of-way;
2. Where a boundary line follows or approximately coincides with a lot or property ownership line, it shall be construed to follow such line;
3. Where a boundary line is not shown as following or approximately coinciding with a street, alley, lot line, or property ownership line, the boundary line shall be determined by the use of the scale shown on the official zoning map;
4. Where a boundary line coincides with a city limits line, the district boundary shall be construed as following the city limits.

D. Zoning map amendments shall be made by the City Manager or an authorized representative with the authorization of the Mayor and City Council pursuant to the provisions of this ordinance. All map amendments shall refer to the date and ordinance number authorizing such change.

10.040 Amendment of Zoning Ordinance

Any amendment of the text of this zoning ordinance shall be accomplished by ordinance of the City Council. Proposals for such amendments shall be submitted to the Planning Commission for public hearing. The Planning Commission shall submit to the City Council its written recommendation regarding the proposed amendment. Such recommendation shall be submitted to the City Council within 30 days of the Planning Commission's action on the proposed amendment. Notice shall also be provided to state land use agencies in accordance with statutory requirements.

10.045 Planning Commission

A. The Planning Commission shall have the power and the duty to hear and act upon requests for zone changes, plan amendments, variances, conditional uses, planned unit developments, and manufactured dwelling parks, and other land use actions in accordance with the procedures set forth in this ordinance.

B. The Planning Commission shall have the power and duty to interpret this ordinance:

1. When, in the administration of this ordinance there is doubt regarding the intent of the ordinance, the Planning Commission may issue an interpretation of the ordinance if they first determine that such interpretation is within their power and is

not a legislative act. Any interpretation of the ordinance shall be based on the following:

- a) The purpose and intent of the ordinance as applied to the particular section and question;
 - b) The opinion of the City Attorney and City Manager or designee when requested by the Planning Commission.
2. The Planning Commission may decide that the interpretation of the question is not within their power or that there is insufficient basis upon which to make an interpretation and may, when necessary, propose an amendment to the ordinance.
3. Any interpretation shall be forwarded to the City Council for its information. Copies of the interpretation shall also be furnished each, Planning Commissioner, and to the City Manager or designee. When such interpretation is of general public interest, copies of such interpretation shall be made available for public distribution, when so directed by the Planning Commission.

10.050 Similar Uses

The Planning Commission may permit in any zone any use not described or listed in this ordinance for any other zone if, in the opinion of the Commission, the requested use is of the same general type as and is similar to the uses permitted in that zone. Such review and permission shall be made in the same manner as other interpretations of this ordinance.

10.055 Nonconforming Uses

A. Within the zones established by this ordinance or amendments to its there may exist lots, parcels, structures, uses, and activities which were lawful prior to the adoption of this ordinance, but which are prohibited or restricted under these more recent regulations. It is the intent of this section that such are existing nonconforming lots, parcels, structures, uses, and activities shall be permitted to continue until they are removed, destroyed, or abandoned. Such nonconforming lots, parcels, structures, uses, and activities, however, are declared by this section to be incompatible with the uses and activities permitted in the same zone under this ordinance; their continued existence is not encouraged, and they shall not be enlarged or extended beyond the area, size, or scope of activity that existed at the time they become nonconforming.

B. In the event that pre-existing nonconforming use or structure is damaged to an extent greater than 60% of its assessed true cash value, it shall not be reconstructed unless it shall conform to the provisions of this ordinance.

C. If a pre-existing nonconforming use, activity, or structure has been abandoned or discontinued for a period of 12 consecutive months or more, any subsequent use of the property shall comply with the provisions of the zone affecting that property.

10.060 Interpretation

The provisions of this ordinance shall be held to be the minimum requirements fulfilling the ordinance's objectives. In the event that some of the requirements imposed by any other provisions of this ordinance or any other ordinance, resolution, or regulation, the requirements which are more restrictive shall govern.

10.065 Severability

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

10.075 Zoning of Annexed Areas

Zoning regulations applicable to an area prior to its annexation to Independence shall continue to apply and shall be enforced by the City until the City Council changes the zoning. The Planning Commission shall investigate thoroughly and expeditiously the annexed property and recommend the appropriate zone to the City Council for adoption.

10.080 Fees

A. Fees shall be required for the following applications in order to defray partially the expenses involved in processing such applications:

1. Zone Change
2. Variance
3. Conditional Use
4. Planned Unit Development
5. Manufactured Dwelling Park
6. Plan Amendment
7. Partition
8. Subdivision
9. Site Design Review
10. Lot Line Adjustment
11. Expedited Land Division
12. Floodplain Development Permit
13. Willamette Greenway Permit

B. The amount of the fees for the applications listed above shall be established by resolution of the City Council. A list describing such fees shall be posted and maintained in the office of the City Manager.

C. All fees shall be nonrefundable except in cases when the processing of an application ceases before the incurring of any substantial expenses for typing, mailing, site inspection, or other work by the City.

SUBCHAPTER 11

ADMINISTRATIVE PROVISIONS

11.002 APPLICATION TYPES AND REVIEW PROCEDURES

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

A. Type I Action

A Type I action is a ministerial action reviewed by staff based on clear and objective standards. Clear and objective conditions may be placed on the decision, and notice of the decision is sent to the applicant and any interested party who requests a copy of the decision. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

1. Lot Line Adjustment
2. Sign Permit
3. Floodplain Permit
4. Site Design Review
5. Minor Partition
6. Administrative Variance
7. Willamette Greenway Administrative Review

B. Type II Action

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice is provided pursuant to Section 2.3. A public hearing is required for Type II actions unless otherwise specified. Appeal of a Type II decision is to the City Council. The following actions are processed under the Type II procedure:

1. Variance
2. Conditional Use Permit
3. Major Partition
4. Subdivision
5. Planned Unit Development
6. Similar Use Determination.

C. Type III Action

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards, and makes the final, local decision. The Planning Commission plays an advisory role. Public notice is provided and, except as noted in subsection (4), public hearings are held before both the Planning Commission and City Council. Sections 2.3 and 2.4 list the notice and hearing requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

1. Zone Change
2. Comprehensive Plan Map Amendment
3. Annexation and Zone Change when requested concurrent with one another. The City Council reviews such a request without review or recommendation by the Planning Commission.
4. Site design review applications for commercial developments with more than 40,000 square feet of gross floor area.

D. Type IV Action

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties may request a Type IV action; however, it must be initiated by the Planning Commission, or City Council. The City Council makes the final, local decision. Sections 2.3 and 2.4 list the notice and hearing requirements.

1. Amendments and Revisions of the Comprehensive Plan
2. City Plan Document Adoption, e.g. Water System Plan
3. Zoning Code Amendments

11.005 Applications for Land Use Actions

Applications for all land-use actions as defined in this ordinance shall be filed with the City Manager. An application shall be submitted in writing on the form provided by the City Manager and shall include the following:

- A. Name, address and telephone number of the applicant;
- B. Name, address, and telephone number of the owner of record of the subject property;
- C. Name, address, and telephone number of any agent acting on behalf of the applicant;

- D. Township, range, section and tax lot number of the subject property;
- E. A legal description of the property;
- F. A list of all property owners of record within the notification area of the subject property;
- G. A map showing all properties within the notification area and any other information pertinent to the request;
- H. The fee for the land-use action, as determined by resolution of the City Council;
- I. Other information required by this ordinance or deemed necessary by the City Manager or Planning Commission.

11.010 Persons Who May Apply for a Land Use Action

An application for a land-use action may be filed by any of the following:

- A. The owner of record of the property that is the subject of the request;
- B. A contract purchaser of the subject property, provided that a written statement of the owner of record's consent to the request accompanies the application;
- C. A lessee of the subject property, provided that a written statement of the owner of record's consent to the request accompanies the applications; or
- D. The agent of any of the above persons. A written statement of the owner of record's consent to the request and a written statement that the agent is authorized to act on behalf of the applicant must accompany any application made by an agent.

11.015 General Provisions

In order to provide for citizen review of the planning process and the orderly keeping of records of actions relating to this Ordinance, the City shall ensure that the following measures are maintained and available for public review.

- A. The City staff shall prepare a written report relating to all applications and actions pursuant to this Ordinance.
- B. The City shall maintain a record of all actions taken pursuant to this Ordinance. The record shall include the required application materials, any exhibits presented to the decision-making bodies, findings for approval or denial, conditions of approval, and any other materials that may have a bearing on the decision.

C. Citizen and Agency Involvement. The City shall provide opportunities for public and agency input in the planning process. The City shall give notice to: (1) the Oregon Department of Transportation (ODOT) regarding any proposed land use action within 250 feet of a State transportation facility and (2) the public works department of any jurisdictions (for example, Polk County), when any action by the City could potentially affect another jurisdiction's transportation facilities.

Information conveyed to reviewing agencies and jurisdictions shall include the project location, proposed land use action, and the location of project access points.

D. Ministerial Actions - Type I. This subsection establishes the procedures to be followed in Type I actions. Applications subject to ministerial review shall be reviewed and decided by the City Manager's designee.

1. Initiation: An application may be submitted by the property owner, contract purchaser or an authorized agent of the owner or contract purchaser.

2. Completeness: Upon receipt of an application for a development permit, the City staff shall review the application for completeness with respect to the submission requirements of this Ordinance. If the application is incomplete, staff shall notify the applicant of exactly what information is missing within 30 days of the receipt of the application, and allow the applicant to submit the missing information. The application shall not be acted upon until:

a. All necessary information is received and the application is deemed complete; or

b. Should the applicant refuse or fail to submit the missing information, the application will be deemed complete, for the purpose of acting on the application, on the 31st day after the original submission. Incompleteness of an application may be grounds for denial.

3. Information submitted to the City after the date the application is deemed complete that results in a substantial change from the original application shall authorize review as a new application. The City Manager's designee shall determine whether a submission constitutes a substantial change from the original application.

4. Notice of the application will be sent to interested agencies such as City departments, school district, utility companies, and applicable state agencies.

5. Notice of the application will be sent to adjacent property owners within 250 feet of the subject property, except for conditional use permit applications for wireless communication facilities where notice of the application will be sent to adjacent property owners within 350 feet of the

subject property. Adjacent property owners will have 14 days to respond with written comments prior to issuance of a decision.

6. If the staff finds that the facts of the particular case require interpretation of existing standards, then the application shall be forwarded to the Planning Commission for review. The procedures for conducting the public hearing shall comply with the standards in Section 11.030.

7. Within 30 days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance.

8. Written notice of any Type I decision shall be mailed to the applicant and any adjacent property owner or interested party that requested a copy of the decision.

9. A Type I land use decision may be appealed to the Planning Commission by the applicant or other interested party. The appeal shall be filed within 12 days from the date of the decision, pursuant to the provisions of Section 11.040.

10. The timing requirements established in this subsection are intended to allow a final action, including resolution of any appeals, within 120 days from the date the application is deemed complete. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.

a. The City staff shall notify the City Council of the time conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.

b. Public notice shall be mailed to affected parties as specified in this section.

c. The City Council shall hold a public hearing on the specified date and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

E. Quasi-Judicial Actions. This subsection establishes the procedures to be followed in Type II and Type III land use actions.

1. The City Manager's designee shall examine each application to ascertain if the appropriate forms have been completed, the appropriate fees have been

paid and if all required documents and information has been submitted. If the application is found to be complete, a public hearing shall be scheduled before the Planning Commission. A complete application for a land-use action must be submitted at least 30 days prior to the public hearing.

2. If the application for a land-use action is incomplete, the City Manager's designee shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete upon receipt of the missing information.

3. Should the applicant refuse or fail to submit the missing information, the application will be deemed complete, for the purpose of acting on the application, on the 31st day after the original submission. Incompleteness of an application may be grounds for denial.

4. Information submitted to the City after the date the application is deemed complete that results in a substantial change from the original application shall authorize review as a new application. The City Manager or designee shall determine whether a submission constitutes a substantial change from the original application.

5. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

6. Combination of Review Procedures: Applications for more than one quasi-judicial land use action for the same property may, at the applicant's discretion, be combined and heard or reviewed concurrently.

7. Application Review: Type II and Type III, quasi-judicial applications shall be heard by the Planning Commission at a public hearing conducted in accordance with the provisions for public hearings. Type III actions also require a second public hearing before the City Council.

8. Review Standards: If an application for a quasi-judicial land use action was complete when first submitted, or if the applicant submits the requested additional information within 180 days of the original submittal date, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

9. Written notice for all Type II and Type III decisions shall be sent to the applicant, adjacent property owners within 250 feet of the subject property, and all individuals who have in writing requested notice of the decision, shall be mailed written notice of the action. Notice shall specify findings justifying

the approval or denial of the request and any applicable conditions of approval.

10. A Type II land use decision of the Planning Commission may be appealed to the City Council, pursuant to the provisions of Section 11.045. A Type II or Type III decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA).

11. The timing requirements established in this subsection are intended to allow a final action, including resolution of any appeals, within 120 days from the date the application is deemed complete. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.

a. The City staff shall notify the City Council of the time conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.

b. Public notice shall be mailed to affected parties as specified in this section.

c. The City Council shall hold a public hearing on the specified date and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

12. Conditions of Approval: Approvals of any quasi-judicial action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

a. Conditions shall be designed to protect public health, safety and general welfare. Conditions shall be related to the following:

i. Protection of the public from the potentially deleterious effects of the proposed use; or

ii. Fulfillment of the need for public service demands created by the proposed use.

b. Changes or alterations of conditions shall be processed consistent with the level of review provided for the original approval.

c. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information that demonstrates to the

satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Planning Commission may require a performance guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.

F. Legislative Actions. This subsection establishes the procedures to be followed by the City in the consideration of Type IV land use actions.

1. Initiation: A Type IV, legislative land use action may be initiated by a majority vote of either the Planning Commission or the City Council.

2. Procedures: Legislative land use actions shall be heard by the Planning Commission at a public hearing conducted in accordance with the provisions of this section. Public notice shall be in accordance with the procedures set forth in this Section. The Planning Commission may continue any meeting in order to make a reasonable recommendation to the City Council. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments pursuant to the notification requirements and hearing procedures of this Section.

11.020 Scheduling of Public Hearings (Repealed)

11.025 Notice of Public Hearings

Except as provided in subsection (K), Whenever a quasi-judicial public hearing (Type II or Type III) is required under this ordinance, the following procedures shall apply:

A. For Type II land use decisions, notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll within 250 feet of the property, which is the subject of the notice, a minimum of 20 days prior to the hearing date. Notice shall also be provided to any neighborhood or community organization recognized by the city and whose boundaries include the site. Notice shall be published in a newspaper of general circulation, a minimum of 20 days prior to the public hearing.

B. For Type III land use decisions, notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll within 250 feet of the property, which is the subject of the notice, a minimum of 10 days prior to the initial hearing date before the Planning Commission. Notice shall also be provided to any neighborhood or community organization recognized by the city and whose boundaries include the site. Notice shall be published in a newspaper of general circulation, a minimum of 10 days prior to the initial public hearing before the Planning Commission.

C. The City shall give notice to: (1) the Oregon Department of Transportation (ODOT) regarding any proposed land use action within 250 feet of a State transportation facility and (2) the public works department of any jurisdictions (for

example, Polk County), when any action by the City could potentially affect another jurisdiction's transportation facilities.

Information conveyed to reviewing agencies and jurisdictions shall include the project location, proposed land use action, and the location of project access points.

D. The notice provided by the city shall:

1. Explain the nature of the application and the proposed use or uses which could be authorized.
2. List the applicable criteria from the ordinance and the plan that apply to the application at issue.
3. Set forth the street address or other easily understood geographical reference to the subject property.
4. State the date, time and location of the hearing.
5. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the hearings body based on that issue.
6. Be mailed at least twenty days before the evidentiary hearing.
7. Include the name of a local government representative to contact and the telephone number where additional information may be obtained.
8. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
9. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.
10. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

E. Applicant's documents and evidence. All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time notice of the public hearing is mailed. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Delays caused by the allowance of such a continuance shall extend any deadlines within which the city is required to complete final action on a land use application.

F. Staff Reports. Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing.

G. Commencement of Hearing. At the Commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:

1. Lists the applicable substantive criteria;
2. States that testimony and evidence must be directed toward the criteria described in paragraph (1) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision.
3. States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.
4. States that failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

H. Close of Record. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Delays caused by keeping the record open under this subsection shall extend any deadlines within which the city is required to complete final action on a land use application.

I. New Evidence. If the record of a public hearing is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

J. An issue which may be the basis for an appeal to the hearing body shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the city. Such issues shall be raised with sufficient specificity so as to afford the hearings body and the parties an adequate opportunity to respond to each issue.

K. The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if, the city can demonstrate by affidavit, that such notice was given. The notice provisions of this subsection shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

L. Legislative Hearings (Type IV). Notice of Public Hearing by the Planning Commission or City Council relating to any legislative action shall be published in a newspaper of general circulation a minimum of 10 days prior to the date of the

hearing. Notice shall be provided to the Department of Land Conservation and Development at least 45 days prior to the first evidentiary hearing by the City for any legislative action.

11.030 Conduct of Public Hearings

The Planning Commission and City Council shall hear and decide upon requests for land-use actions (Type II and Type III actions) in accordance with the following procedures:

- A. Proponents and opponents of the request shall have an opportunity to present and rebut evidence at a hearing.
- B. Applicants for and proponents and opponents of a land-use action may be represented at the hearing by legal counsel.
- C. The Planning Commission and the City Council shall establish procedures for the conduct of hearings. Hearings shall be conducted in accordance with those procedures. A written description of such procedures shall be kept at the place of the hearing and shall be available to all persons at the hearing.
- D. Members of the Planning Commission and City Council shall disclose any ex-parte contacts made with any person interested in the request being heard.
- E. Any decision made by the Planning Commission or City Council on a request for a land-use action shall be supported by findings. Such findings shall indicate the facts and reasons used to make the decision.
- F. The Planning Commission or City Council may grant, deny, continue, or table any request for a land-use action. Written notice of the Planning Commission's action shall be sent to the applicant and to the City Council within ten days of the Planning Commission's action.
- G. Any public hearing may be continued prior to the closing of the hearing. Notice of the time and place at which the hearing is to be resumed shall be publicly announced during the initial hearing. Such announcement shall serve as sufficient notice of the continuance to all interested persons.

11.035 Resubmission of Requests

Any request for a land-use action which has been denied by the Planning Commission or City Council shall not be resubmitted for a period of one year following the date of the denial unless consent for resubmission is approved by the Planning Commission or the City Council.

11.040 Appeal of Type I Decision

- A. An applicant, agent for or representative of the applicant, or any other aggrieved party may appeal any Type I decision made by the City Manager's designee. Such an appeal shall be directed to the Planning Commission within 12 days of the

date of the Planning Commission decision. If no appeal is filed within 12 days from the date of the designee's decision, that decision shall be final.

B. Any appeal shall be based upon the applicable criteria from the ordinance and must state with specificity which criteria are being appealed.

C. If an appeal is filed, the Planning Commission shall be given a report of the designee's action or ruling. The Planning Commission shall hold a public hearing of the appeal. Notice of such a public hearing shall be provided in accordance with the provision for public hearings set forth in this chapter. The public hearing of an appeal shall be conducted in accordance with the procedures for public hearings set forth in this ordinance.

D. All appeals shall be accompanied by a fee, established by resolution, which shall cover all costs except the cost of preparation of a written transcript. The fee for a written transcript shall be based on the actual cost of preparing the transcript, up to \$500.00.

11.045 Appeal of Planning Commission Actions

Any land-use action granted under this ordinance may be rescinded by the Planning Commission or City Council if it is found that the application for such action contains false statements, or if subsequent division, development, or use of land occurs in a manner different from that which was approved.

A. An applicant, agent for or representative of the applicant, or any person who appeared in person, by representative or in writing, at the public hearing, may appeal any land-use action or ruling made by the Planning Commission. Such an appeal shall be directed to the City Council and shall be filed in writing with the City Manager or designee within 12 days of the date of the Planning Commission decision. If no appeal is filed within 12 days from the Planning Commission's decision, that decision shall be final.

B. Any appeal shall be based upon the applicable criteria from the ordinance and the plan which were raised in the land use hearing and must state with specificity which criteria are being appealed.

C. If an appeal is filed, the City Council shall be given a report of the Planning Commission's action or ruling. The City Council shall hold a public hearing of the appeal. Notice of such a public hearing shall be provided in accordance with the provision for public hearings set forth in this chapter. The public hearing of an appeal shall be conducted in accordance with the procedures for public hearings set forth in this ordinance. The decision of the City Council regarding any appeal shall be final and shall become effective on the date of the City Council's action on the appeal.

D. The City Council may appoint a hearings officer to hear land-use actions on a case-by-case basis and may provide that the decision of a hearings officer of the Planning Commission is the final determination of the city.

E. All appeals shall be accompanied by a fee, established by resolution, which shall cover all costs except the cost of preparation of a written transcript. The fee for a written transcript shall be based on the actual cost of preparing the transcript, up to \$500.00.

11.060 Supplemental Application for Remaining Permitted Uses Following Denial of an Initial Application

A. A person whose application for a permit is denied by the City may submit to the City a supplemental application for any or all other uses allowed under the City's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

B. The City or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 ("The 120-day Rule") shall apply to a supplemental application submitted under this section.

C. A supplemental application submitted under this section shall include a request for any rezoning or variance that may be required to issue a permit under the City's comprehensive plan and land use regulations.

D. The City shall adopt specific findings describing the reasons for approving or denying:

1. A use for which approval is sought under this section; and
2. A rezoning or variance requested in the application.

SUBCHAPTER 12

ZONE CHANGES AND PLAN AMENDMENTS

12.005 Initiation of a Zone Change or Plan Amendment

A zone change or plan amendment may be initiated in any one of the following ways:

- A. The City Council may initiate such action by resolution. The resolution shall be forwarded to the City Manager, who shall set a date for a public hearing before the Planning Commission and give notice of such hearing as provided in this ordinance.
- B. The Planning Commission may initiate such action by resolution. The resolution shall be forwarded to the City Manger, who shall set a date for a public hearing before the Planning commission and give notice of such hearing as provided in this ordinance.
- C. A property owner may initiate such action by petition for the owner's own property.

12.010 Zone Change and Plan Amendment by Petition

Any property owner may initiate a zone change or plan amendment for the property that he or she owns by submitting to the City Recorder a petition bearing the following:

- A. Present zoning and plan designation of the property;
- B. Proposed zoning and plan designation of the property;
- C. Street address and township, range, section, and tax-lot number of the property.
- D. Legal description of the property;
- E. Names, addresses, and zip codes of the owners of record of the property to be reclassified;
- F. Signatures of the owners of at least 50 percent of the property to be reclassified and the percentage of each signatory's ownership of the property;
- G. A map showing all properties within the notification area and the names of the owners of each property;
- H. A certified list showing the names and addresses of all owners of record of property within the notification area. Attached to the certified list shall be an affidavit of the person who prepared the certified list. The affidavit shall indicate that such person is qualified and competent to examine the public records of ownership of real property and that the list of names is accurate and complete. The

certificate of an abstract company or title company incorporated under the laws of Oregon shall be deemed as compliance with this requirement. The petition for reclassification must be filed within 60 days of the making of the certified list.

The petition shall be filed with the City Recorder, who shall set a date for public hearing before the Planning Commission and give notice of such hearing as provided in this ordinance.

12.015 Recommendation by the Planning Commission

The Planning Commission shall conduct a public hearing of any request for a zone change or plan amendment. Upon completion of the public hearing, the Commission shall forward to the City council its recommendation regarding the proposed reclassification. Such recommendation shall be in writing and shall contain findings regarding the facts and conclusions used to make the recommendation. Such recommendation shall be delivered to the City Council within 30 days of the Planning Commission's hearing.

12.020 Action by the City Council

Upon receipt of a recommendation from the Planning Commission for any zone change or plan amendment, the City Council shall hold a public hearing. The City Council shall base its decision upon the findings, conclusions and recommendations reached by the Planning Commission unless, by a preponderance of the evidence, it finds facts and reaches conclusions different from those reached by the Planning Commission. All zone changes or plan amendments shall be based on written findings. Any zone change or plan amendment shall be by ordinance. Any denial of a request for a zone change or plan amendment shall be by resolution.

12.025 Standards for Zone Changes

No zone change shall be approved by the Planning Commission or enacted by the City council unless it conforms to the Comprehensive Plan and at least one of the following standards is met:

- A. The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;
- B. Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate and the zone change would conform to the new conditions of the neighborhood;
- C. There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.

12.030 Standards for Plan Amendment

No plan amendment shall be approved by the Planning Commission or enacted by the City Council unless at least one of the following standards is met:

- A. The Comprehensive Plan designation for the land for which the plan amendment is initiated is erroneous and the plan amendment would correct the error;
- B. Conditions in the neighborhood surrounding the land for which the plan amendment is initiated have changed to such a degree that the Comprehensive Plan designation is no longer appropriate and the plan amendment would conform to the new conditions in the neighborhood;
- C. There is a public need for land use of the kind for which the plan amendment is initiated and that public need can best be met by the plan amendment.

12.035 Official Maps

Whenever any property is reclassified to a different zone or plan designation, the official zoning map or Comprehensive Plan map shall be revised accordingly. Such revision shall be accomplished within 30 days of the effective date of the ordinance granting the zone change or plan amendment.

SUBCHAPTER 13

DEFINITIONS

ACCESS

"Access" means the way or means by which pedestrians and vehicles enter and leave property.

ACCESSORY BUILDING

"Accessory Building" means a detached building or portion of a main building, the use of which is incidental, appropriate, and subordinate to that of the main building or to the use of the land.

ACCESSORY STRUCTURE

"Accessory Structure" means a detached structure or a structure attached to a building the use of which is incidental, appropriate, and subordinate to that of the main building or use of the land.

ACCESSORY USE

"Accessory Use" means a use incidental, appropriate, and subordinate to the main use of a building or land.

AIR CONTAMINANT

"Air Contaminant" means any dust, fume, mist, odor, smoke, vapor, pollen, soot, carbon, acid, or particulate matter which is emitted into the atmosphere.

AIRPORT

"Airport" means a land area, field, runway, or other facility designed, used, or intended to be used for the landing and take-off of aircraft. Such definition shall also include structures and facilities for the storage, maintenance, or repair of aircraft, which use the landing field or runway.

ALLEY

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

ALTER

"Alter" means any change, addition, or modification in construction of a structure or building.

ALTERATION, STRUCTURAL

"Alteration, Structural" means any alteration or repair which changes a supporting member of a building such as a bearing wall, column, beam, header, or girder.

APARTMENT

"Apartment" means a dwelling unit that is part of an apartment house.

APARTMENT HOUSE

"Apartment House" means three or more dwelling units within the same building or sharing one or more common walls and designed for occupancy by three or more families living independently of each other. (Same as dwelling, MULTI-FAMILY.)

AUTO COURT

See MOTEL.

AUTOMOBILE SERVICE STATION

"Automobile Service Station" means a premises used for the retail sale of gasoline, oil, and minor automobile accessories, and for the routine service, minor repair, and maintenance of automobiles.

AUTOMOBILE OR TRAILER SALES LOT

"Automobile or Trailer Sales Lot" means a lot or parcel used for the display, sale, or rent of new or used automobiles or trailers, and where no repair work is done except for the minor, incidental repair of automobiles or trailers to be displayed, sold, or rented on the premises.

AUTOMOBILES WRECKING YARD (JUNK YARD)

"Automobiles Wrecking Yard" means any property where more than two motor vehicles, not in running condition, or the parts of more than two vehicles are stored in the open; or any property used for the storage, sale, dismantling, or abandonment of wrecked automobiles, trailers, trucks, machinery, or parts thereof.

AWNING

"Awning" means a movable shelter supported entirely from the exterior wall of a building and which can be retracted, folded, or collapsed against the face of a supporting building.

AWNING, MANUFACTURED HOME (RAMADA)

Same as RAMADA

BASEMENT

"Basement" means that portion of a building between floor and ceiling which is partly below and partly above grade, and which has a vertical distance from grade to the floor below equal to or greater than the vertical distance from grade to ceiling. If such portion of a building is not a basement, then it shall be considered a story.

BED and BREAKFAST ESTABLISHMENT

"Bed and Breakfast Establishment" means a structure designed and occupied as a residence and in which sleeping rooms are provided on a daily or weekly basis for use by travelers or transients for a charge or fee paid for the rental or use of the facilities. An establishment with more than five sleeping rooms shall be considered a hotel.

BLOCK

"Block" means an area of adjoining properties on one side of a street and lying between the nearest intersecting streets, railroad or right-of-way, boundaries of unsubdivided acreage, water-courses, city limits, or bodies of water.

BOARDING HOUSE

"Boarding House" means a building or portion thereof used for the purpose of providing meals or meals and lodging for pay or family occupying such dwelling. An establishment where meals are served for compensation to more than five persons shall be considered a restaurant. An establishment with more than five sleeping rooms shall be considered a hotel.

BOARDING OF ANIMALS

"Boarding of Animals" means the care and keeping of four or more dogs, cats, or other pets over the age of four months for a period of time greater than 48 hours. The care and keeping of animals at a veterinary clinic while such animals are undergoing treatment or are convalescing shall not be considered boarding of animals.

BUILDING

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

BUILDING LINE

"Building Line" means a line that is parallel with and adjacent to the most forward portion of a building.

BUILDING OFFICIAL

"Building Official" means the superintendent of the building department or his designate.

CABANA

"Cabana" means a stationary light-weight structure which may be prefabricated or demountable and which has two or more walls, used adjacent to and in conjunction with a manufactured home or trailer to provide additional living space and designed to be moved with the trailer or mobile home.

CAFE

Same as RESTAURANT.

CAMPER

"Camper" means a portable structure intended to shelter persons or property during recreation, work or travel and designed to be mounted or carried upon a car, truck, or other vehicle and having no motive power of its own.

CAMP GROUNDS

"Camp Grounds" means any property under one ownership where two or more camp sites are located so as to provide facilities for temporary sleeping and cooking in any manner other than in a permanent dwelling, a manufactured dwelling, or a recreational vehicle.

CAPACITY

"Capacity" means the maximum holding or service ability, as used for transportation, utilities, parks, and other public facilities.

CARPORT

"Carport" means a stationary structure used to shelter an automobile, and having two or more open sides.

CELLAR

See BASEMENT.

CEMETERY

"Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes. Such definition includes a columbarium, crematory, or mortuary, when operated in conjunction with and within the boundary of a cemetery.

CHILD CARE FACILITY

"Child Care Facility" means any facility that provides care and supervision of no more than 12 minor children for periods of less than 24 hours. Such a facility includes a day nursery, nursery school group, group child care home, child care center, family child care home or similar unit operating under any name. [from ORS 657A.250 part omitted.]

CHURCH

"Church" means a building together with its accessory buildings and uses, where persons regularly assemble for worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CITY

"City" shall mean that area under the jurisdiction of the governing body of the City of Independence, the City Council, or a representative of the City authorized to act in that capacity by the City Council.

CITY COUNCIL

"City Council" shall mean the governing body of the City of Independence, Oregon.

CLEAR VISION AREA

"Clear Vision Area" means a triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines for 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 a point of intersection.

CLINIC

"Clinic" means an establishment where human patients, who are not lodged overnight, are admitted for treatment or examination by one or more physicians, dentists, chiropractors, or other practitioners of medicine.

CLUB

"Club" means buildings and facilities, owned or operated for a social, educational or recreational purpose, to which membership is required for participation, and not operated primarily for profit nor to render a service which is customarily carried on as a business.

COMMISSION

"Commission" means the City Planning Commission.

COMMON AREA

"Common Area" means land commonly owned to include open space, landscaping or recreation facilities (e.g. typically owned by homeowners associations).

COMMON WALL CONSTRUCTION

"Common Wall Construction" means a single-family dwelling having one or more walls attached to and in common with one or more other single-family dwellings.

COMMUNITY BUILDING

"Community Building" means a publicly owned and operated facility used for meetings, recreation, or education.

COMPREHENSIVE PLAN

"Comprehensive Plan" means a comprehensive plan for the City of Independence as adopted by the City Council, and including the comprehensive plan map and policies.

CONDOMINIUM

"Condominium" means the land, whether leasehold or in fee simple and whether contiguous or noncontiguous, all buildings, improvements, and structures thereon, and all easements, rights, and appurtenances belonging thereto, which are submitted to the provisions of Oregon Revised Statutes (ORS) 100.005 to 100.625.

CONVALESCENT HOME

Same as NURSING HOME.

COUNCIL

"Council" means the common council of the City.

COURTYARD

"Courtyard" means a space, open and unobstructed to the sky, bounded on three or more sides by walls of a building.

CURB LINE

"Curb Line" means the line indicating the edge of the vehicular roadway within the overall right-of-way on improved streets. The curb line is the face of the curb at the storm water gutter line.

DECK

"Deck" means a flat-floored, roofless area adjoining a dwelling or other building and adapted especially to outdoor dining and living.

DEDICATION

"Dedication" means the designation of land by its owner for any public use as shown on a partition or subdivision plat or deed. The term may also be used for dedications to a private homeowners association.

DENSITY

"Density" means the number of dwelling units per acre of land within a subdivision, manufactured dwelling park, planned unit development, lot or parcel. Accessory dwelling units, as allowed by this ordinance, are not included in density calculations. The number of acres shall be determined by measurement of the gross area of the property, that is, to include the area of any future streets, common areas, or other rights-of-way to be dedicated to the public. For the purpose of this ordinance, ranges of density shall be defined as follows:

- A. Low Density: 0-8 dwelling units per gross acre;
- B. Medium Density: 9-12 dwelling units per gross acre;
- C. High Density: 13-20 dwelling units per gross acre.

DEVELOPMENT

"DEVELOPMENT" means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes. For floodplain management purposes, the definition of "development" found in Section 51.010 is used.

DORMITORY

"Dormitory" means a building other than a hotel, boarding house, or rooming house and used primarily for sleeping purposes.

DWELLING UNIT

"Dwelling Unit" means one or more habitable rooms occupied or intended or designed to be occupied by one family and having facilities for living, sleeping, cooking, and eating; such definition shall not include a hotel, motel, boarding house, camp ground or manufactured dwelling.

DWELLING, ACCESSORY

"Dwelling, Accessory" means a single dwelling unit, either attached or detached, that is a subordinate use on the same lot with any single-family dwelling unit.

DWELLING, QUAD OR QUINT

"Dwelling, Quad or Quint" means a dwelling unit consisting of four or more rooms used for both living and sleeping, designed around a central kitchen, and intended primarily for occupancy by unrelated individuals. For the purpose of determining residential density, the number of dwelling units in each quad or quint shall be considered to be the number of dwelling rooms surrounding the core kitchen divided by two.

DWELLING, SINGLE-FAMILY

"Dwelling, Single-Family" means a single detached dwelling unit designed exclusively for occupancy by one family.

DWELLING, TOWNHOUSE

"Dwelling, Townhouse" means a multi-family structure so designed that each individual dwelling unit is located upon a separate lot or parcel.

DWELLING, TWO-FAMILY (Duplex)

"Dwelling, Two-Family (Duplex)" means two dwelling units sharing one or more common walls on one lot or parcel and designed exclusively for occupancy by two families living independently of each other.

DWELLING, MULTIPLE-FAMILY

"Dwelling, Multiple-Family" means three or more dwelling units within the same building or sharing one or more common walls and designed for occupancy by three or more families living independently of each other. (Same as APARTMENT HOUSE.)

EASEMENT

"Easement" means a non-possessory interest or right of usage of real property granted by an owner to the public or to specific person, firms, or corporations.

EDUCATIONAL INSTITUTION

"Educational Institution" means a college or university supported by public funds, tuition, contributions, or endowments and giving general academic instruction, excluding elementary and high schools and trade or commercial schools.

FAMILY

"Family" means an individual; or two or more persons related by blood, marriage, or adoption; or a group of not more than five persons (excluding servants) not related by blood or marriage and living together in a dwelling.

FENCE

"Fence" means any obstruction constructed of any materials, including but not limited to wire, wood, cement, brick and evergreen or shrubbery planting arranged in such a way as to partially or wholly obstruct vision.

FLAG LOT

"Flag lot" means a lot that has frontage on and primary access to a street by means of a "flag pole".

FLAG POLE

"Flag pole" means that portion of a flag lot that is a narrow strip of land providing primary frontage and access to the main body of the lot.

FLOOR AREA

"Floor Area" means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

- A. Attic space providing headroom of less than seven feet;
- B. Basement of the floor above is less than six feet above grade;
- C. Uncovered steps or fire escapes;
- D. Private garages, carports or porches;
- E. Accessory water towers or cooling towers;
- F. Accessory off-street parking or loading spaces.

FRATERNITY, SORORITY, STUDENT HOUSE

"Fraternity, Sorority, Student House" means a residential building in which living accommodations are furnished to the students of an educational institution.

FRONTAGE

"Frontage" means the distance along which a lot or parcel abuts a street as defined in this ordinance.

GARAGE, PRIVATE

"Garage, Private" means a detached accessory building or portion of a main building for the parking or temporary storage of automobiles for the residents, tenants, employees, or owners of the building, and in which no business, occupation, or commercial service is conducted. A private garage for a dwelling shall not be designed to accommodate more than 3 automobiles and shall not exceed 750 square feet in floor area.

GARAGE, PUBLIC

"Garage, Public" means a building other than a private garage where motor vehicles are parked or stored for compensation, hire or sale.

GARAGE, REPAIR

"Garage, Repair" means a building in which automobiles or other motor vehicles are repaired or modified for compensation.

GRADE, (GROUND LEVEL)

"Grade, (Ground Level)" means the lowest elevation of the finished surface of the ground between the exterior wall of building and a point five feet distant from said wall; or the lowest elevation of the finished surface of the ground between the exterior wall of a building and the property line if such line is less than five feet distant from the wall. In the case that walls are parallel to and within five feet of a public sidewalk, alley, or other public way, the grade shall be the elevation of the sidewalk, alley, or public way.

GUEST HOUSE, SERVANTS' QUARTERS

"Guest House, Servants' Quarters" means an accessory building without kitchen or cooking facilities and occupied solely by nonpaying guests or by servants employed on the premises.

HEIGHT OF BUILDING

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

HELIPORT

"Heliport" means an area used or intended for landing or take-off of helicopters or other vertical take-off and landing aircraft capable of hovering, and which includes all of the area or buildings which are accessory to these functions.

HOME OCCUPATION

"Home Occupation" means an occupation carried on solely by the resident or residents of a dwelling and which is incidental, secondary, and subordinate to the residential use, and which is conducted in accordance with the provisions and requirements of this ordinance. All home occupations shall comply with the requirements of Subchapter 72.

HOSPITAL

"Hospital" means an institution devoted primarily to the rendering of healing, curing, and nursing care; and which maintains and operates facilities for the diagnosis, treatment, or care of two or more non-related individuals suffering from illness, injury, or deformity; or where obstetrical or other healing or nursing care is rendered over a period exceeding 24 hours.

HOTEL OR LODGING HOUSE

"Hotel or Lodging House" means a building or portion of a building containing rooms customarily occupied by travelers as temporary quarters and for which compensation is paid and which are not residences.

JUNK YARD

Same As AUTOMOBILE WRECKING YARD.

KINDERGARTEN

Same as DAY CARE CENTER.

KENNEL

"Kennel" is as defined in Chapter 42 of the Independence Municipal Code.

LANDSCAPE

"Landscape" means to change the natural features of a site so as to make it more attractive, by adding trees, bushes, ground cover, and other plants or built features such as paths, fountains, and pools.

LAND-USE ACTION

"Land-Use Action" means a quasi-judicial decision rendered by the Planning Commission or the City Council on a request for a variance, conditional use, zone change, plan amendment, subdivision, manufactured dwelling park, planned unit development or partition.

LINE, FRONT BUILDING

"Line, Front Building" means a horizontal line parallel to the front lot line and passing through that part of the main building's foundation which is closest to the front lot line. In the case of a lot which has no improvements upon it, the front building line shall be considered to be a line located halfway between the front and rear lot lines and parallel to the front lot line.

LIQUID WASTE

"Liquid Waste" means waste oils, septic tank pumpings, industrial wastes, or other similar liquids.

LOADING SPACE

"Loading Space" means an off-street space or berth for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Such as space shall be on the same lot as the building or group of buildings that it serves and shall abut upon a street, alley, or other appropriate means of access.

LOT

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

LOT AREA

"Lot Area" means the total area measured on a horizontal plane within the lines of a lot.

LOT, CORNER

"Lot Corner" means a lot abutting on two or more streets, other than an alley, at their intersection.

LOT, CURVILINEAR

"Lot Curvilinear" means a lot having a curved frontage.

LOT, DEPTH

"Lot, Depth" means the horizontal distance between the front lot line and the rear lot line measured in the mean direction of the side lot lines.

LOT, DOUBLE FRONTAGE

"Lot, Double Frontage" means a lot which has frontage on two streets, but which is not a corner lot.

LOT, INTERIOR

"Lot, Interior" means any lot other than a corner lot.

LOT LINE

"Lot Line" means the lines bounding a lot as defined herein.

LOT LINE, FRONT

"Lot Line, Front" means in the case of an interior lot, a line separating the lot from the street; in the case of a corner lot or double frontage lot, the line separating the lot from the street on which the improvements or contemplated improvement will face, or if that is not applicable, the line adjoining the street from which the property will take its access, or, if neither of the preceding is applicable, the line having the shorter street frontage.

LOT LINE, REAR

"Lot Line, Rear" means a lot line which is opposite and most distant from the front lot line. In the case of a triangular lot, the rear lot line for building purposes shall be assumed to be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

LOT LINE, SIDE

"Lot Line, Side" means any lot line which is not a front or rear lot line.

LOT, THROUGH

Same as DOUBLE-FRONTAGE LOT.

LOT OF RECORD

"Lot of Record" means a lot which is part of an approved, recorded subdivision, or a lot or parcel described by metes and bounds and which has been recorded in the office of the County Clerk.

LOT WIDTH

"Lot Width" means the distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

MAIN BUILDING

"Main Building" means a structure housing the primary land use which occurs on a lot or parcel. There may be several main buildings on a single lot or parcel. See ACCESSORY BUILDING.

MANUFACTURED DWELLING

"Manufactured Dwelling" means:

- a. Manufactured home, as defined by this ordinance.
- b. Mobile home, as defined by this ordinance.
- c. Residential trailer, as defined by this ordinance.

"Manufactured Dwelling" does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to Oregon Revised Statutes 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer.

MANUFACTURED DWELLING PARK

"Manufactured Dwelling Park" means a privately owned property where four (4) or more manufactured dwellings, used as residences, are within 500 feet of one another on the same 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 City as a subdivision.

MANUFACTURED HOME

"Manufactured Home" means a structure constructed for movement on 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 and regulations in effect at the time of construction.

MARGINAL ACCESS STREET

"Marginal Access Street" means a minor street parallel and adjacent to major streets and which provides access to abutting properties with protection from through traffic.

MOBILE HOME

"Mobile Home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed 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.

MOTEL (Auto Court, Tourist Court)

"Motel" means a series of attached, semi-detached, or detached units customarily occupied by travelers as temporary quarters and for which compensation is paid. Such units shall have an entrance directly from the outside into the building and shall not be used as residences.

NONCONFORMING LOT OF RECORD

"Nonconforming Lot of Record" means a lot which was lawfully created in compliance with all applicable ordinances and laws, but which because of the application of a subsequent zoning ordinance or amendments, no longer conforms to the requirements for the zone in which it is located.

NONCONFORMING STRUCTURE

"Nonconforming Structure" means the use of a structure or land which use was lawfully established compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance or amendments, (1) no longer conforms to the setback, height, maximum lot coverage, or other building development requirements of this Chapter, or (2) is clearly designed and intended for uses other than those permitted in the zone in which it is located.

NOTIFICATION AREA

"Notification Area" means, as applied to a request for a land use action, the notification area shall be deemed to include the area bounded by lines 250 feet from and parallel to the boundaries of the property that is the subject of the request. The notification area also include the property that is the subject of the request. In those cases where the subject property is adjoined by property under the same ownership, the notification area shall be measured from the outermost property line of all the contiguous properties under that ownership.

NURSERY

Same as DAY CARE CENTER

NURSING HOME (Convalescent Home, Rest Home)

"Nursing Home" means any home, place or institution which operates and maintains facilities providing convalescent or nursing care or both for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent care may include, but need not be limited to, the procedures commonly employed in nursing and caring of the sick. A nursing home includes rest homes and convalescent homes, but does not include a boarding home for the aged, a retirement home, hotel, hospital, or a chiropractic facility licensed according to Oregon Revised Statutes.

OWNER

"Owner" means the owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a property according to the term of a recorded contract.

PARCEL

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

PARKING AREA, PRIVATE

"Parking Area, Private" means an open area other than a private parking area, street, or alley used for the parking of automobiles and available for use by the public or by persons patronizing a particular building or establishment.

PARKING SPACE, AUTOMOBILE

"PARKING Space, Automobile" means an area within a private or public area, building, or structure, for the parking of one automobile.

PATIO

"Patio" means an unenclosed, covered recreation area adjoining a dwelling or other building and adapted especially to outdoor dining and living.

PERSON

"Person" means a natural person or his heirs, executors, administrators, or assigns; or a firm, partnership, or corporation, or its successors or assigns; or the agent of any of the aforesaid; or any political subdivision, agency, board, or bureau of government.

PLAN AMENDMENT

"Plan Amendment" means a change of the plan designation of a property as shown on the Comprehensive Plan map.

PLAN DESIGNATION

"Plan Designation" means the designation of a property as shown on the comprehensive plan map.

PLANNING COMMISSION

"Planning Commission" means the Planning Commission of the City of Independence, Oregon.

PROFESSIONAL OFFICE

"Professional Office" means an office occupied by an accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts.

PROPERTY LINE

Same as LOT LINE.

RAMADA

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

RECREATIONAL VEHICLE

"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. Such definition shall include pickup campers, motor homes, camper trailers, and similar vehicles regardless of whether they are self-propelled, carried or towed.

RECREATIONAL VEHICLE PARK

"Recreational Vehicle Park" means a plot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreational or vacation purposes.

REFUSE

"Refuse" means any putrescible and nonputrescible solid wastes including garbage, rubbish, ashes, dead animals, abandoned automobiles, solid market wastes, street cleanings, and industrial waste (including waste disposal from industrial salvage).

REPAIR

"Repair" means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance or improvement. The word "repair" or "repairs" shall not include any structural alteration.

RESIDENCE

"Residence" means any dwelling unit, apartment, building, mobile home, or other structure in which residential activities are conducted and which is occupied by a person, family, or group of persons for a period exceeding thirty days within any 12-month period.

RESIDENTIAL

"Residential" means that which pertains to the activities normally conducted within a residence (i.e., living, sleeping, cooking, and eating).

RESIDENTIAL FACILITY

"Residential Facility" means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, licensed or registered under ORS 443.400 to 443.460 or licensed under ORS 418.205 to 418.327 by the Department of Human Services that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen 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

"Residential Home" means a residential treatment or training or an adult foster home licensed by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that 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.

RESIDENTIAL TRAILER

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

REST HOME

Same as NURSING HOME.

RESTAURANT (Cafe)

"Restaurant" means an establishment where prepared food is served to the public either for consumption within the building or as a take-out service.

RIGHT-OF-WAY (R.O.W.), PUBLIC

"Right-of-Way" means a defined area of land dedicated to and wholly owned by the public so that it may be used or passed across by the public.

ROOMING HOUSE

"Rooming House" means a dwelling or portion thereof where sleeping rooms are provided, where no meals are provided, and where lodging for three or more persons is provided for compensation. An establishment having more than five sleeping rooms shall be considered a hotel.

SCHOOL, PRIVATE (Elementary, Junior High, or High)

"School, Private" means an institution, public, private or parochial, offering instruction in several branches of learning in accordance with the rules and regulations of the State Department of Education.

SCHOOL, TRADE OR COMMERCIAL

"School, Trade or Commercial" means a school in which instruction is given to pupils for a fee in money, and which is not a public school, and which specializes in the teaching of a particular skill, trade or profession.

SERVICE STATION

"Service Station" means a premises used for the retail sale of gasoline, oil, and minor automobile accessories, and for the routine service, minor repair, and maintenance of automobiles.

SETBACK

"Setback" means the distance between a building (or other feature of development) and a property line. Minimum and maximum setbacks may be required for front, rear, and side yards.

SIGN

"Sign" means an identification, description, illustration or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business.

SIGN, ADVERTISING

"Sign, Advertising" means a sign which directs attention to a business, product, activity, or service which is not necessarily conducted, sold or offered upon the premises where such sign is located.

SIGN, BUSINESS

"Sign, Business" means a sign which directs attention to a business, professional, service, product, activity, or entertainment sold or offered upon the premises where such sign is located.

SIGN, PORTABLE

"Sign, Portable" means any sign that is not permanently affixed to a building, structure, or the ground; a sign designed to be moved from place to place. These signs primarily included but are not limited to: A-frame or sandwich board signs, signs attached to wood or metal frames which are designed to be self-supporting and movable, and trailer reader boards. Portable sign does not mean a sign affixed to and hanging from a marquee or awning provided the bottom of such sign is not less than eight feet above the sidewalk grade.

STORY

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of any floor and the upper surface of the next floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor and level directly above a basement or unused underfloor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement or unused underfloor space shall be considered a story.

STREET

"Street" means a public way or thoroughfare wide which has been dedicated or deeded to the public to provide access.

STRUCTURE

"Structure" means that which is built or constructed; an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, regardless of whether it is wholly or partly above or below grade.

STRUCTURAL ALTERATION

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

SUBJECT PROPERTY

"Subject Property" means the lot or parcel that is the subject of a request for a land use action as defined in this ordinance.

TRAILER (TRAVEL OR VACATION)

Same as RECREATIONAL VEHICLE.

TOURIST COURT

Same as MOTEL.

USE

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

VETERINARY HOSPITAL

"Veterinary Hospital" means a building or premises for the medical or surgical treatment of domestic animals or pets.

VISION CLEARANCE

"Vision Clearance" means a triangular area at the street intersection corner of a corner lot, or at the corner at any alley and street intersection. The triangular area is defined by a diagonal line connecting points on the right-of-way lines a prescribed distance from corner formed by the intersecting streets.

WETLANDS

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term is defined more specifically by the Federal Clean Water Act (Section 404) and Oregon Administrative Rules (OAR 141-85-010). The protection, development, and regulation authority over designated wetlands are subject to the most current, local, state, and federal regulations.

YARD

"Yard" means the area defined by setbacks (i.e. between the setback line and respective property line).

YARD, FRONT

"Yard, Front" means a yard extending across the full width of the lot, the depth of which is the minimum distance between the front lot line and a line parallel thereto at the nearest point of the foundation of the main building.

YARD, LANDSCAPED

"Yard, Landscaped" means an open area devoted primarily to the planting and maintaining of trees, grass, shrubs, and plants together with sufficient permanent irrigation equipment to maintain properly all vegetation. As complementary features, fountains, pools, screens, decorative lighting, sculpture, and outdoor furnishings may be placed within said area.

YARD, REAR

"Yard, Rear" means a yard extending across the full width of the lot between the nearest main building and the rear lot line. The required rear yard depth shall be measured horizontally from the nearest point of the rear lot line, or, if the rear lot line adjoins an alley, then from the center line of the alley, toward the nearest part of the foundation of the building.

YARD, SIDE

"Yard, Side" means a yard between the main building and the side lot line extending from the front yard or front lot line to the rear yard; the required side yard depth shall be measured from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

ZONE CHANGE

"Zone Change" means a change of the zoning of one or more properties, as shown on the zoning map adopted by the City of Independence.

SUBCHAPTER 20

LOW-DENSITY RESIDENTIAL (RS) ZONE

20.005 Purpose

The purpose of the RS Zone is to define and protect areas suitable for low-density residential uses.

20.010 Density

The density of residential development upon any lot in an RS Zone shall not exceed eight (8) dwelling units per acre.

20.015 Permitted Uses

Within any RS Zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

- A. Single-Family dwelling, with a floor area of not less than 1,000 square feet;
- B. Playground or park;
- C. Garden, orchard, or crop cultivation provided that only the occasional sale or trading of plants and produce grown on the premises shall be permitted. No cattle, horses, other livestock, poultry, or farm animals may be maintained in this zone.
- D. Accessory uses and structures:
 1. Customary residential accessory buildings and structures for private use, such as a pergola, greenhouse, hobby shop, patio, porch, deck, wood shed, shelter for domestic pets of the resident, fence, and fallout shelter;
 2. Private garage for a dwelling, as defined in this ordinance;
 3. Parking area for one commercial vehicle having a gross vehicle weight less than 20,000 pounds;
 4. Parking or storage area for a boat, camper, trailer, or recreational vehicle of the residents;
 5. Swimming pool for private use;
 6. Guest house or quarters not in the main building, when such house or quarters are dependent upon the main building for either kitchen or bathroom facilities or both and are not used for residential purposes;

7. Accessory dwelling units subject to the following criteria:
- a. One accessory building per legal building lot as a subordinate use in conjunction with any single-family structure;
 - b. Either the primary residence or the accessory dwelling unit must be occupied by the owners of the property. In addition, accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the main building. The owners shall sign an affidavit affirming that the owners will occupy the main building or the accessory dwelling unit as their principal residence for at least six months every year. The owners shall sign a covenant agreeing to the conditions of this section that shall be recorded with the Polk County Clerk's office. The form of the affidavit and covenant shall be specified by the Community Development Department.
 - c. The total number of occupants in both the primary residence and the accessory dwelling unit combined may not exceed the maximum number established by the definition of "family" in this ordinance.
 - d. The total number of occupants in both the primary residence and the accessory dwelling unit combined may not exceed the maximum number established by the definition of "family" in this ordinance.
 - e. The accessory dwelling unit shall not contain less than 300 square feet and not more than 800 square feet, excluding any related garage area; provided that if the accessory unit is completely located on a single floor, the City Manager's designee may allow increased size in order to efficiently use all floor area, so long as all other standards set forth in this section are met;
 - f. The square footage of the accessory dwelling unit, excluding any garage area, shall not exceed 40 percent of the total square footage of the primary residence and accessory dwelling unit combined, excluding any garage area. This percentage shall apply to both attached and detached dwelling units. Where the City Manager's designee allows increased size per subsection e, the square footage shall not exceed 50 percent of the total square footage of the primary residence and accessory dwelling unit combined, excluding any garage area;
 - g. There shall be one (1) off-street parking space in a carport, garage, or designated space provided for the accessory dwelling unit in addition to that, which exists on the site for the primary residence;
 - h. Accessory dwelling units shall be located only in the same building as the principal residence, unless the lot is at least 8,500

square feet in area or unless the accessory dwelling unit will replace a detached, preexisting structure of at least 400 square feet. Where lots contain at least 8,500 square feet or there is a detached, preexisting structure of at least 400 square feet, the accessory dwelling may be part of the principal structure or located in a detached structure;

i. An accessory dwelling unit shall be designed to maintain the appearance of the main building of the single-family residence. If the accessory unit extends beyond the current footprint of the principal residence, such an addition shall be consistent with the existing roof pitch, siding, and windows. If an accessory unit is detached from the main building it must also be consistent with the existing roof pitch, siding, and windows. In addition, only one entrance to the main building will be permitted in the front of the principal residence. A separate entrance for the accessory building shall be located off either the side or rear of the building;

j. The accessory dwelling unit shall meet all technical code standards including building, electrical, fire, plumbing, and other applicable code requirements.

E. Structure necessary for the City or for a public utility to provide service to the neighborhood in which it is located. Such structures shall include, but not be limited to the following:

1. Electric service meters, lines, transformers, and poles;
2. Natural gas lines;
3. Telephone lines and poles;
4. Water and sewer lines;
5. Streets and sidewalks.

F. The taking of boarders or renting of rooms by a resident family, provided that that the total number of boarders and roomers does not exceed two in any single-family dwelling or exceed four in any duplex.

G. Residential home, as defined by this ordinance.

H. Child care facility, as defined by this ordinance, complying with ORS 657A.030 and 657A.250 to 657A.450.

20.020 Conditional Uses

If authorized under the procedures provided for conditional uses in this ordinance, the following uses will be permitted in an RS Zone;

- A. Two-family dwelling (duplex) on a corner lot, provided that such a lot has an area of at least 8,000 square feet;
- B. Church;
- C. Community or neighborhood club building, swimming pool, and other allied facilities owned and operated by a nonprofit community club for the improvement of the neighborhood or recreation of the members.
- D. Buildings and structures operated by a governmental agency or by a public utility and necessary for public service. Such facilities shall include, but not be limited to fire stations, libraries, electrical substations, and water storage tanks. Such facilities shall not include commercial plants for the generating of electrical power;
- E. Beauty shop, provided that no assistants are employed;
- F. Barber shop, provided that no assistants are employed;
- G. Home occupation, in accordance with the provisions of Subchapter 72;
- H. Planned unit development, in accordance with the provisions of Chapter 60;
- I. School (elementary, junior high, high school);
- J. Rooming house;
- K. Boarding house;
- L. Residential facility, as defined in this ordinance;
- M. Bed and breakfast establishment, in accordance with the provisions of Subchapter 72.

20.025 Lot Area

The minimum area of any lot created in the RS Zone shall be 5,000 square feet.

20.030 Lot, Frontage

The minimum width at the front lot line of any lot created in the RS Zone shall be 25 feet.

20.035 Lot Width

The minimum width at the front building line of any lot created in the RS Zone shall be 50 feet.

20.040 Yards

A. No main building shall be constructed, erected, or placed within a required yard. No main building shall be constructed, enlarged, altered, or repaired in such a way that it extends into any required yard except as may be authorized under the provisions of Chapter 75, "Yards". When this or any other ordinance required a setback of yard of greater depth than is required in this section, the greater setback or yard requirement shall apply.

B. When parking is provided in a garage attached to the primary structure and the garage doors face the street, the front of the garage can be no closer to the front lot line than the front façade of the house.

C. In the RS Zone, the minimum depth of any front, side, or rear yard shall be determined from the following table:

SETBACK OF MAIN BUILDING

	ONE STORY	TWO STORIES	THREE OR MORE STORIES
MINIMUM FRONT YARD DEPTH: Interior Lot Corner Lot	15' 15'	15' 15'	15' 15'
MINIMUM REAR YARD DEPTH: Interior Lot Corner Lot	15' 15'	15' 15'	15' 15'
MINIMUM SIDE YARD DEPTH: Yard Not Adjoining Street Yard Adjoining Street	5' 10'	5' 10'	5' 10'

20.045 Height

No new building in an RS Zone shall exceed a height of 30 feet except that a church or public service building may be built to a height not to exceed 45 feet.

20.050 Lot Coverage

No main building or group of main buildings in an RS Zone shall occupy more than 40% of the area of any single lot.

20.060 Off-street Parking

The required number of parking spaces and shall be as specified in Subchapter 73. Parking requirements for residential units, including manufactured homes, require the construction of a garage.

SUBCHAPTER 21

MEDIUM-DENSITY RESIDENTIAL (RM) ZONE

21.005 Purpose

The purpose of the Medium-Density Residential (RM) Zone is to define and protect areas suitable for low or medium-density residential uses. Such areas are intended for the development and use of single-family dwellings and medium-density residential structure such as duplexes, row houses, and townhouses.

21.010 Density

The density of residential development upon any lot in an RM Zone shall not exceed 12 dwelling units per acre.

21.015 Permitted Uses

Within any RM Zone, no structure shall be used, constructed, or altered and no lot, tract, or parcel of land shall be used or occupied for any purposes except the following:

- A. Single-Family dwelling, with a floor area of not less than 1,000 square feet;
- B. Two-Family dwelling (duplex);
- C. Medium-density residential structure such as a townhouse or row houses, as part of a subdivision or planned unit development, subject to the requirements of Section 75.060.
- D. Playground or park;
- E. Garden, orchard, or crop cultivation provided that only the occasional sale or trading of plants and produce grown on the premises shall be permitted. No cattle, horses, other livestock, poultry, or farm animals may be maintained in this zone.
- F. Accessory uses and structures:
 - 1. Customary residential accessory buildings and structures for private use, such as a pergola, greenhouse, hobby shop, patio, porch, deck, wood shed, shelter for domestic pets of the resident, fence, and fallout shelter;
 - 2. Private garage, as defined in this ordinance;
 - 3. Parking area for one commercial vehicle having a gross weight less than 20,000 pounds.
 - 4. Parking or storage area for a boat, camper, trailer or recreational vehicle of the residents;

5. Swimming pool for private use;
6. Guest house or quarters not in the main building, when such house or quarters are dependent upon the main building for either kitchen or bathroom facilities or both and are not used for residential purposes;
7. Accessory dwelling units subject to the following criteria:
 - a. One accessory building per legal building lot as a subordinate use in conjunction with any single-family structure;
 - b. Either the primary residence or the accessory dwelling unit must be occupied by the owners of the property. In addition, accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the main building. The owners shall sign an affidavit affirming that the owners will occupy the main building or the accessory dwelling unit as their principal residence for at least six months every year. The owners shall sign a covenant agreeing to the conditions of this section that shall be recorded with the Polk County Clerk's office. The form of the affidavit and covenant shall be specified by the Community Development Department.
 - c. The total number of occupants in both the primary residence and the accessory dwelling unit combined may not exceed the maximum number established by the definition of "family" in this ordinance.
 - d. The accessory dwelling unit shall not contain less than 300 square feet and not more than 800 square feet, excluding any related garage area; provided that if the accessory unit is completely located on a single floor, the City Manager or designee may allow increased size in order to efficiently use all floor area, so long as all other standards set forth in this section are met;
 - e. The square footage of the accessory dwelling unit, excluding any garage area, shall not exceed 40 percent of the total square footage of the primary residence and accessory dwelling unit combined, excluding any garage area. This percentage shall apply to both attached and detached dwelling units. Where the City Manager or designee allows increased size per subsection e, the square footage shall not exceed 50 percent of the total square footage of the primary residence and accessory dwelling unit combined, excluding any garage area;
 - f. There shall be one (1) off-street parking space in a carport, garage, or designated space provided for the accessory dwelling unit in addition to that, which exists on the site for the primary residence;

g. Accessory dwelling units shall be located only in the same building as the principal residence, unless the lot is at least 8,500 square feet in area or unless the accessory dwelling unit will replace a detached, preexisting structure of at least 400 square feet. Where lots contain at least 8,500 square feet or there is a detached, preexisting structure of at least 400 square feet, the accessory dwelling may be part of the principal structure or located in a detached structure;

h. An accessory dwelling unit shall be designed to maintain the appearance of the main building of the single-family residence. If the accessory unit extends beyond the current footprint of the principal residence, such an addition shall be consistent with the existing roof pitch, siding, and windows. If an accessory unit is detached from the main building it must also be consistent with the existing roof pitch, siding, and windows. In addition, only one entrance to the main building will be permitted in the front of the principal residence. A separate entrance for the accessory building shall be located off either the side or rear of the building;

i. The accessory dwelling unit shall meet all technical code standards including building, electrical, fire, plumbing, and other applicable code requirements.

G. Structure necessary for the City or for a public utility to provide service to the neighborhood in which it is located. Such structures shall include, but not be limited to the following:

1. Electric service meters, lines, transformers, and poles;
2. Natural gas lines;
3. Telephone lines and poles;
4. Water and sewer lines;
5. Street and sidewalks;

H. The taking of boarders or renting of rooms by a resident family, provided that the total number of boarders and roomers does not exceed two in any single-family dwelling or four in any duplex;

- I. Day-Care Home, as defined in this ordinance;
- J. Parking area or structure for a multi-family dwelling;
- K. Residential home, as defined in this ordinance;
- L. Residential facility, as defined in this ordinance.

- M. Child care facility, as defined by this ordinance, complying with ORS 657A.030 and 657A.250 to 657A.450.

21.020 Conditional Uses

If authorized under the procedures provided for conditional uses in this ordinance, the following uses will be permitted in an RM Zone:

- A. Dwelling, quad or quint;
- B. Manufactured Dwelling Park, in accordance with the provisions of Chapter 61;
- C. Church
- D. Community or neighborhood club building, swimming pool, and other allied facilities owned and operated by a non-profit community club for the improvement of the neighborhood or the recreation of the members;
- E. Buildings and structures operated by a governmental agency or by a public utility and necessary for public service. Such facilities shall include, but not be limited to fire stations, libraries, electrical substations, and water storage tanks. Such facilities shall not include commercial plants for the generating of electrical power;
- F. Beauty shop, provided that no assistants are employed;
- G. Barber shop, provided that no assistants are employed;
- H. Home occupation, in accordance with provisions of Subchapter 72;
- I. Planned unit development, in accordance with the provisions of Subchapter 60;
- J. School (elementary, junior high, senior high);
- K. Boarding house;
- L. Rooming house;
- M. Bed and breakfast establishment, in accordance with the provisions of Subchapter 72.

20.025 Lot Area

The minimum area of any lot, except townhouse lots, created in the RM Zone shall be 5,000 square feet.

The minimum area for townhouse lots created in the RM Zone shall be 3,500 square feet.

21.030 Lot Frontage

The minimum width at the front lot line of any lot, created in the RM Zone shall be 25 feet.

21.035 Lot Width

The minimum width at the front building line of any lot, except townhouse lots, created in the RM Zone shall be 50 feet.

The minimum width for any townhouse lot created in the RM Zone shall be 25 feet.

21.040 Yards

A. No main building shall be constructed, erected or placed within a required yard. No main building shall be constructed, enlarged, altered, or repaired in such a way that it extends into any required yard except as may be authorized under the provisions of Chapter 75, "Yards". When this or any other ordinance requires a setback or yard of greater depth than is required in this section, the greater setback or yard requirement shall apply.

B. When parking is provided in a garage attached to the primary structure and the garage doors face the street, the front of the garage can be no closer to the front lot line than the front façade of the house.

C. In an RM Zone the minimum distance for any front, side, or rear yard, or between the two main buildings on the same lot shall be determined from the following table:

SETBACK OF MAIN BUILDING

	ONE STORY	TWO STORIES	3 STORIES OR MORE
MINIMUM FRONT YARD DEPTH: Interior Lot Corner Lot	15' 15'	15' 15'	15' 15'
MINIMUM REAR YARD DEPTH: Interior Lot Corner Lot	15' 15'	15' 15'	15' 15'
MINIMUM SIDE YARD DEPTH: Yard Not Adjoining Street Yard Adjoining Street	5' 10'	5' 10'	5' 10'
MINIMUM DISTANCE: Between Main Buildings on the Same Lot	10'	15'	15'

21.045 Height

No building in an RM Zone shall exceed a height of 35 feet, except that a church or public service building may be built to a height not to exceed 45 feet.

21.050 Lot Coverage

No main building or group of main buildings in an RM Zone shall occupy more than 40% of the area of any single lot.

21.055 Recreation Area Required

Each lot having a multi-family residential building on it shall have at least 300 square feet of recreation area per dwelling unit. The required recreation area can be located within the required front or rear yards. The required recreation area shall be planted with grass or otherwise developed and landscaped in a manner suitable for pedestrian traffic and recreation. (See 22.055).

21.060 Off-street Parking

The required number of parking spaces and shall be as specified in Subchapter 73. Parking requirements for residential units, including manufactured homes, require the construction of a garage. Manufactured dwellings located in manufactured dwelling parks are required to install either a garage or carport.

SUBCHAPTER 22

HIGH DENSITY RESIDENTIAL (RH) ZONE

22.005 Purpose

The purpose of the High-Density Residential (RH) Zone is to define and protect areas suitable for medium and high-density residential uses.

22.010 Density

The density of residential development upon any lot in an RH Zone shall not exceed 20 dwelling units per acre.

22.015 Permitted Uses

Within any RH Zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

- A. Multi-family buildings, including apartment houses, courtyard apartments, and garden apartments;
- B. Medium-density residential structure such as a townhouse or row house, as part of a subdivision or planned unit development, subject to the requirements of Section 75.060;
- C. Two-family dwelling (duplex);
- D. Dwelling, quad or quint;
- E. Single-family dwelling, with a floor area of not less than 1,000 square feet ;
- F. Playground or park;
- G. Garden, orchard, or crop cultivation provided that only the occasional sale or trading of plants and produce grown on the premises shall be permitted. No cattle, horses, other livestock, poultry, or farm animals may be maintained in this zone.
- H. Accessory uses and structures:
 - 1. Customary residential accessory buildings and structures for private use, such as a pergola, greenhouse, hobby shop, patio, porch, deck, wood shed, shelter for domestic pets of the resident, fence, and fallout shelter;
 - 2. Private garage, as defined in this ordinance;
 - 3. Parking area for one commercial vehicle having a gross vehicle weight less than 20,000 pounds;

4. Parking or storage area for a boat, camper, trailer, or recreational vehicle of the residents;
5. Swimming pool for private use;
6. Guest house or quarters not in the main building, when such house or quarters are dependent upon the main building for either kitchen or bathroom facilities or both and are not used for residential purposes;
7. Accessory dwelling units subject to the following criteria:
 - a. One accessory building per legal building lot as a subordinate use in conjunction with any single-family structure;
 - b. Either the primary residence or the accessory dwelling unit must be occupied by the owners of the property. In addition, accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the main building. The owners shall sign an affidavit affirming that the owners will occupy the main building or the accessory dwelling unit as their principal residence for at least six months every year. The owners shall sign a covenant agreeing to the conditions of this section that shall be recorded with the Polk County Clerk's office. The form of the affidavit and covenant shall be specified by the Community Development Department.
 - c. The total number of occupants in both the primary residence and the accessory dwelling unit combined may not exceed the maximum number established by the definition of "family" in this ordinance.
 - d. The accessory dwelling unit shall not contain less than 300 square feet and not more than 800 square feet, excluding any related garage area; provided that if the accessory unit is completely located on a single floor, the City Manager or designee may allow increased size in order to efficiently use all floor area, so long as all other standards set forth in this section are met;
 - e. The square footage of the accessory dwelling unit, excluding any garage area, shall not exceed 40 percent of the total square footage of the primary residence and accessory dwelling unit combined, excluding any garage area. This percentage shall apply to both attached and detached dwelling units. Where the City Manager or designee allows increased size per subsection e, the square footage shall not exceed 50 percent of the total square footage of the primary residence and accessory dwelling unit combined, excluding any garage area;

f. There shall be one (1) off-street parking space in a carport, garage, or designated space provided for the accessory dwelling unit in addition to that, which exists on the site for the primary residence;

g. Accessory dwelling units shall be located only in the same building as the principal residence, unless the lot is at least 8,500 square feet in area or unless the accessory dwelling unit will replace a detached, preexisting structure of at least 400 square feet. Where lots contain at least 8,500 square feet or there is a detached, preexisting structure of at least 400 square feet, the accessory dwelling may be part of the principal structure or located in a detached structure;

h. An accessory dwelling unit shall be designed to maintain the appearance of the main building of the single-family residence. If the accessory unit extends beyond the current footprint of the principal residence, such an addition shall be consistent with the existing roof pitch, siding, and windows. If an accessory unit is detached from the main building it must also be consistent with the existing roof pitch, siding, and windows. In addition, only one entrance to the main building will be permitted in the front of the principal residence. A separate entrance for the accessory building shall be located off either the side or rear of the building;

i. The accessory dwelling unit shall meet all technical code standards including building, electrical, fire, plumbing, and other applicable code requirements.

l. Structure necessary for the city or for a public utility to provide service to the neighborhood in which it is located. Such structure shall include, but not be limited to the following:

1. Electric service meter, line transformers, and poles;
2. Natural gas lines;
3. Telephone lines and poles;
4. Water and sewer lines;
5. Streets and sidewalks.

J. Boarding house;

K. Day-care home, as defined in this ordinance;

L. Parking area or structure for a multi-family dwelling;

M. Rooming house;

- N. Dormitory;
- O. Fraternity, sorority, or student house;
- P. Nursing home;
- Q. Bed and breakfast establishment, in accordance with the provisions of Subchapter 72.
- R. Residential home, as defined in this ordinance;
- S. Residential facility, as defined in this ordinance.
- T. Child care facility, as defined by this ordinance, complying with ORS 657A.030 and 657A.250 to 657A.450.

22.020 Conditional Uses

If authorized under the procedures provided for conditional uses in this ordinance, the following uses will be permitted in an RH Zone:

- A. Manufactured dwelling park, in accordance with the provision of Chapter 61;
- B. Church;
- C. Community or neighborhood club building, swimming pool and other allied facilities owned and operated by a non-profit community club for the improvement of the neighborhood or the recreation of the members.
- D. Buildings and structures operated by a governmental agency or by a public utility and necessary for public service. Such facilities shall include but not be limited to fire stations, libraries, electrical sub-stations, and water storage tanks. Such facilities shall not include commercial plants for the generating of electrical power;
- E. Beauty shop, provided that no assistants are employed;
- F. Barber shop, provided that no assistants are employed;
- G. Home occupation in accordance with the provisions of Subchapter 72;
- H. Planned unit development, in accordance with the provisions in Chapter 60;
- I. School (elementary, junior high and senior high).

22.025 Lot Area

The minimum area of any lot, except townhouse lots, created in the RH Zone shall be 5,000 square feet.

The minimum area of any townhouse lot created in the RH Zone shall be 3,500 square feet.

22.030 Lot Frontage

The minimum width at the front lot line of any lot created in the RH Zone shall be 25 feet.

22.035 Lot Width

The minimum width at the front building line of any lot, except townhouse lots, created in the RH Zone shall be 50 feet.

The minimum width at the front building line of any townhouse lot created in the RH Zone shall be 25 feet.

22.040 Yards

- A. No main building shall be constructed, erected, or placed within a required yard. No main building shall be constructed, enlarged, altered, or repaired in such a way that it extends into any required yard except as may be authorized under the provisions of Chapter 75, "Yards". When this or any other ordinance requires a setback or yard of greater depth than is required in this section, the greater setback or yard requirement shall apply.
- B. When parking is provided in a garage attached to the primary structure and the garage doors face the street, the front of the garage can be no closer to the front lot line than the front façade of the house.
- C. In an RH Zone the minimum distance for any front, side, or rear yard, or between the two main buildings on the same lot shall be determined from the following table:

SETBACK OF MAIN BUILDING

	ONE STORY	2 STORIES	2½ STORIES	3 STORIES OR MORE
MINIMUM FRONT YARD DEPTH: Interior Lot Corner Lot	15' 15'	15' 15'	15' 15'	15' 15'
MINIMUM REAR YARD DEPTH: Interior Lot Corner Lot	10' 10'	10' 10'	10' 10'	10' 10'
MINIMUM SIDE YARD DEPTH: Yard Not Adjoining Street Yard Adjoining Street	5' 10'	5' 10'	5' 10'	5' 10'
MINIMUM DISTANCE: Between Main Building on the Same Lot	10'	15'	15'	20'

22.045 Height

No building in an RH Zone shall exceed a height of 45 feet.

22.050 Lot Coverage

No main building or group of main buildings in an RH Zone shall occupy more than 45% of the area of a single lot.

22.060 Off-street Parking

The required number of parking spaces and shall be as specified in Subchapter 73. Parking requirements for residential units, including manufactured homes, require the construction of a garage. Manufactured dwellings located in manufactured dwelling parks are required to install either a garage or carport.

22.070 Development Standards for Multi-Family Development

All multi-family residential developments in the RH Zone shall comply with the following specific standards:

- A. Off-Street Parking. Off-street parking shall be as specified in Section 22.060 and Subchapter 73.
- B. Signs. Signs shall be subject to the provisions of Subchapter 58.

C. Landscaping. All development is subject to the landscaping provisions in Subchapter 54. Recreation areas may be included as part of the required landscaping.

D. Recreation Area. Each lot having a multi-family residential building on it shall have at least 300 square feet of recreation area per dwelling unit. The required recreation area can be located within the required front or rear yards. Such recreation areas shall be planted with grass or otherwise developed and landscaped in a manner suitable for pedestrian traffic and recreation.

E. Design Review. All new developments and expansion of an existing development shall be subject to the Site Design Review procedures of Subchapter 80.

F. 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. Existing access roads and access points shall be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

SUBCHAPTER 30

COMMERCIAL OFFICE (CO) ZONE

30.005 Purpose

The purpose of the Commercial Office (CO) Zone is to define and protect areas suitable for offices and businesses providing personal professional services.

32.007 Downtown Commercial Core

As used in this chapter, the Downtown Commercial Core is defined as those properties zoned Commercial Office (CO) within the area described as follows:

- The area bounded on the north by A Street, bounded on the east by the Willamette River, bounded on the south by F Street, and bounded on the west by Third Street.

30.010 Permitted Uses

Within any CO zones, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

- A. Service related businesses such as barber shops, beauty salons, advertising agencies, self-serve laundry, dry cleaning, printing or photocopying, or other activities where the primary activity is the providing of a service to retail customers;
- B. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; and miscellaneous offices such as detective agencies, drafting services or contractor's offices.
- C. Single-family dwelling, with a floor area of not less than 1,000 square feet;
- D. Playground or park;
- E. Garden, orchard, or crop cultivation provided only the occasional sale or trading of plants and produce grown on the premises shall be permitted. No cattle, horses, other livestock, poultry, or farm animals may be maintained in this zone.
- F. The taking of boarders or renting of rooms by a resident family, provided that the total number of boarders and roomers does not exceed two in any single-family or four in any duplex;
- G. Home occupation as defined in this ordinance (Note: Home occupations in commercial zones are not subject to the requirements of Subchapter 72);
- H. Public garage;

- I. Private garage;
- J. Accessory uses and structures:
 - 1. Customary residential accessory buildings and structures for private use, such as a pergola, greenhouse, hobby shop, patio, porch, deck, wood shed, shelter for domestic pets of the resident, fence, and fallout shelter;
 - 2. Parking or storage area for a boat, camper, trailer, or recreational vehicle of the residents;
 - 3. Swimming pool for private use;
 - 4. Guest house or quarters not in the main building, provided that such house or quarters are dependent upon the main building for either kitchen or bathroom facilities or both and that they are not used for residential purposes.
- K. Structure necessary for the city or for a public utility to provide service to the neighborhood in which it is located. Such structures shall include, but not be limited to the following:
 - 1. Electric service meters, lines transformers and poles;
 - 2. Natural gas lines;
 - 3. Telephone lines and poles;
 - 4. Water and sewer lines;
 - 5. Streets and sidewalks.
- L. Residential home, as defined in this ordinance.
- M. Bed and breakfast establishment.

30.015 Conditional Uses

If authorized under the procedures provided for conditional uses in this ordinance, the following uses will be permitted in a CO zone:

- A. Church;
- B. Buildings and structures operated by a governmental agency or by a public utility and necessary for public service. Such facilities shall include but not be limited to fire stations, libraries, electrical substations, and water storage tanks. Such facilities shall not include commercial plants for the generating of electrical power;
- C. School (elementary, junior high, senior high);

- D. Trade or commercial school;
- E. Small commercial activities in conjunction with and secondary to a business or office permitted outright in the CO zone. Such uses shall include but not be limited to a news stand, coffee shop, dining room, or pharmacy. There shall be no exterior displays or advertisements for such secondary commercial uses except that a sign having a maximum area of four square feet shall be permitted near each door of the business. No more than one-half the floor area of one story shall be devoted to such secondary commercial uses;
- F. Hospital;
- G. Veterinary clinic, not to include the boarding of animals;
- H. Heliport.

30.020 Lot Area

No minimum lot area is required for lots created in the downtown core area as defined in Section 30.007. The minimum area of any lot created in the CO zone, apart from the downtown core area, shall be 5,000 square feet.

30.025 Lot Width

No minimum lot width is required for lots created in the downtown core area as defined in Section 30.007. The minimum width at the front lot line of any lot created in the CO zone, apart from the downtown core area, shall be 50 feet.

30.030 Yards

- A. No main building shall be constructed, erected, or placed within a required yard. No main building shall be constructed, enlarged, altered, or repaired in such a way that it extends into any required yard except as may be authorized under the provisions of Chapter 75, "Yards". When this or any other ordinance requires a setback or yard of greater depth than is required in this section, the greater setback or yard requirement shall apply.
- B. Front Yard: No front yard is required for commercial buildings in the downtown core area as described in Section 30.007. The maximum front yard allowed in the downtown core area is 10 feet. Buildings in a CO zone apart from the downtown core area shall be set back 15 feet from the front property line.
- C. Side Yard: The minimum depth of a side yard in the CO zone shall be 5 feet.
- D. Rear Yard: No rear yard shall be required in a CO zone except where such a zone adjoins property zoned for residential uses, in which case the minimum depth of

the rear yard shall be 10 feet. For new residential buildings, the rear yard setback shall be a minimum depth of 10 feet.

E. Distance Between Main Building: No minimum distance between main buildings is required in the downtown core area as described in Section 30.007. The minimum distance between two main buildings on the same lot in a CO zone, apart from the downtown core area, shall be 10 feet.

30.035 Height

No building in a CO zone shall exceed a height of 45 feet.

30.040 Lot Coverage

No main building or group of main buildings in a CO zone shall occupy more than 60% of the area of any single lot.

30.050 Development Standards

All developments in the CO Zone shall comply with the following specific standards:

- A. Off-Street Parking. Off-street parking shall be as specified in Subchapter 73.
- B. Signs. Signs shall be subject to the provisions of Subchapter 58.
- C. Landscaping. All development is subject to the landscaping provisions in Subchapter 54.
- D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Subchapter 90.
- E. Design Review. All new development and expansion of an existing structure or use in the CO Zone shall be subject to the Site Design Review procedures of Subchapter 80.
- F. Storm water Facilities. All storm water facilities shall comply with the requirements of Subchapter 55.
- G. 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. Existing access roads and access points shall be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

SUBCHAPTER 31

COMMERCIAL HIGHWAY (CH) ZONE

31.005 Purpose

The purpose of the Commercial Highway (CH) zone is to define and protect areas suitable for commercial uses which require exposure and access to major traffic arterials and which provide facilities and services to motorists.

31.010 Permitted Uses

Within any CH zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

- A. One dwelling for the owner, manager, or operator of a permitted activity on the same lot;
- B. Motel, hotel;
- C. Restaurant;
- D. Drive-in restaurant;
- E. Grocery store;
- F. Service station;
- G. Bus station;
- H. Automobile rental agency;
- I. Truck and trailer rental agency;
- J. Sporting equipment and other recreational equipment rental service;
- K. Tool and equipment rental agency;
- L. Tourist information center;
- M. Car wash;
- N. Photographic shop;
- O. Drugstore, pharmacy;
- P. Gift, novelty, curio, or souvenir shop;

- Q. Florist shop or plant nursery;
 - R. Public or private museum, art gallery, or similar use;
 - S. Automobile sales and service center;
 - T. News stand;
 - U. Bakery;
 - V. Apparel store;
 - W. Antique shop;
 - X. Storage rental units (mini-warehouses);
 - Y. Bicycle or motorcycle sales;
 - Z. Residential home, as defined in this ordinance.
- AA. Any use permitted outright in the Commercial Office (CO) zone in accordance with the provisions of Section 30.010.

31.015 Conditional Uses

If authorized under the procedures provided for conditional uses in this ordinance, the following uses will be permitted in a CH zone:

- A. Church;
- B. Buildings and structures operated by a governmental agency or by a public utility and necessary for public service. Such facilities shall include but not be limited to fire stations, libraries, electrical substations, and water storage tanks. Such facilities shall not include commercial plants for the generating of electrical power, and shall not include outdoor stockpiling of material and supplies.
- C. School (elementary, junior high, senior high);
- D. Trade or commercial school;
- E. Truck fueling and service stations;
- F. Hospital;
- G. Recreational vehicle park;
- H. Campground;

- I. Veterinary clinic, not to include boarding of animals;
- J. Heliport.

31.020 Lot Area

The minimum area of any lot created in the CH zone shall be 5,000 square feet.

31.025 Lot Width

The minimum width at the front lot line of any lot created in the CH zone shall be 50 feet.

31.030 Yards

- A. No main building shall be constructed, erected, or placed with a required yard. No main building shall be constructed, enlarged, altered, or repaired in such a way that it extends into any required yard except as may be authorized under the provisions of Chapter 745, "Yards". When this or any other ordinance requires a setback or yard of greater depth than is required in this section, the greater setback of yard requirement shall apply;
- B. Front Yard: The minimum depth of a front yard in the CH zone shall be 15 feet.
- C. Side yard: The minimum depth of a side yard in the CH zone shall be 5 feet. For new residential buildings, the side yard setback shall be a minimum of five (5) feet.
- D. Rear Yard: No rear yard shall be required in a CH zone except where such a zone adjoins property zoned for residential uses, in which case the minimum depth of the rear yard shall be 10 feet. For new residential buildings, the rear yard setback shall be a minimum depth of 10 feet.
- E. Distance Between Main Buildings: The minimum distance between two main buildings on the same lot in a CH zone shall be 10 feet.

31.035 Height

No building in a CH Zone shall exceed a height of 45 feet.

31.040 Lot Coverage

No main building or group of main buildings in a CH zone shall occupy more than 60% of the area of any single lot.

31.045 Development Standards

All developments in the CH Zone shall comply with the following specific standards:

- A. Off-Street Parking. Off-street parking shall be as specified in Subchapter 72.
- B. Signs. Signs shall be subject to the provisions of Subchapter 58.
- C. Landscaping. All development is subject to the landscaping provisions in Subchapter 54.
- D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Subchapter 90.
- E. Design Review. All new development and expansion of an existing structure or use in the CH Zone shall be subject to the Site Design Review procedures of Subchapter 80.
- F. Storm water Facilities. All storm water facilities shall comply with the requirements of Subchapter 55.
- G. 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. Existing access roads and access points shall be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

SUBCHAPTER 32

COMMERCIAL RETAIL (CR) ZONE

32.005 Purpose

The purpose of the Commercial Retail (CR) zone is to define and protect areas suitable for the development of a wide range of retail commercial facilities and services. The purpose of the zone is also intended to maintain the character and appearance of the downtown core, while allowing for a mixture of commercial and residential uses.

32.007 Downtown Commercial Core

As used in this chapter, the Downtown Commercial Core is defined as those properties zoned Commercial Retail (CR) within the area described as follows:

- The area bounded on the north by A Street, bounded on the east by the Willamette River, bounded on the south by F Street, and bounded on the west by Third Street.

32.010 Permitted Uses

Within any CR zone, the following uses shall be permitted:

- A. A commercial activity involving retail sales and service and which is not listed as a conditional use in the CR zone;
- B. A commercial activity involving personal or professional services and which is not listed as a conditional use in the CR zone;
- C. Office;
- D. Playground or park;
- E. Public garage;
- F. Private garage;
- G. Structure necessary for the city or for a public utility to provide service to the neighborhood in which it is located. Such structures shall include but not be limited to the following:
 - 1. Electric service meters, lines, transformers, and poles;
 - 2. Natural gas lines;
 - 3. Telephone lines and poles;
 - 4. Water and sewer lines;

5. Streets and sidewalks.

H. Residential use on the second or third-story of a commercial building. At least one off-street parking spaces for each such dwelling unit shall be provided in addition to any parking spaces required for the commercial activity.

I. Single-family dwelling, with a floor area of not less than 1,000 square feet;

J. Residential home, as defined in this ordinance;

K. Bed and breakfast establishment.

32.015 Conditional Uses

If authorized under the procedures provided for conditional uses in this ordinance, the following uses will be permitted in a CR zone:

A. Church;

B. Buildings and structures operated by a governmental agency or by a public utility and necessary for public service. Such facilities shall include but not be limited to fire stations, libraries, electrical substations, and water storage tanks. Such facilities shall not include commercial plants for the generating of electrical power.

C. School (elementary, junior high, senior high);

D. Trade or commercial school;

E. Truck fueling and service station (except in the downtown core area);

F. Hospital;

G. Recreational vehicle park (except in the downtown core area);

H. Campground (except in the downtown core area);

I. Veterinary clinic;

J. Kennel (except in the downtown core area);

K. Heliport (except in the downtown core area);

L. Crematory (except in the downtown core area);

M. Transmitter station, towers, relay stations and similar facilities for electronic communications;

- N. Bus terminal or depot;
- O. Freight forwarding facility (except in the downtown core area);

32.020 Lot Area

No minimum lot area is required for lots created in the downtown core area as defined by Section 32.007. The minimum area of any lot created in the CR zone, apart from the downtown core area, shall be 5,000 square feet.

32.025 Lot Width

No minimum lot width is required for lots created in the downtown core area as defined by Section 32.007. The minimum width at the front lot line of any lot created in the CR zone, apart from the downtown core area, shall be 50 feet.

32.030 Yards

- A. No main building shall be constructed, erected, or placed within a required yard. No main building shall be constructed, enlarged, altered, or repaired in such a way that it extends into any required yard except as may be authorized under the provisions of Chapter 75, "Yards". When this or any other ordinance requires a setback or yard of greater depth than is required in this section, the greater setback or yard requirement shall apply.
- B. Front Yard: No front yard is required for commercial buildings in the downtown core area as described in the Comprehensive Plan. The maximum front yard allowed in the downtown core area is 10 feet. Buildings in a CR zone apart from the downtown core area shall be set back 15 feet from the front property line.
- C. Side Yard: No side yard is required for commercial buildings in the CR zone except that where the side of a lot abuts any residential zone, there shall be a landscaped side yard of the same depth required in the abutting residential zone. For new residential buildings, the side yard setback shall be a minimum of five (5) feet.
- D. Rear Yard: No rear yard is required for commercial buildings in the CR zone except that where the rear of the lot abuts any residential zone, there shall be a landscaped rear yard of the same depth required in the abutting residential zone. For new residential buildings, the rear yard setback shall be a minimum depth of 10 feet.
- E. Distance Between Main Building: No minimum distance between main buildings is required in the downtown core area as defined in Section 32.007. The minimum distance between two main buildings on the same lot in a CR zone, apart from the downtown core area, shall be 10 feet.

32.035 Height

No building in a CR zone shall exceed a height of 45 feet.

32.045 Prohibited Uses

Within the CR zone, the following uses shall not be permitted:

- A. Manufacturing or processing not associated with and incidental to a retail commercial activity permitted in Sections 32.010 or 32.015;
- B. A warehouse or wholesale firm not open to the general public.

32.050 Development Standards

All developments in the CR Zone shall comply with the following specific standards:

- A. Off-Street Parking. Off-street parking shall be as specified in Subchapter 73.
- B. Signs. Signs shall be subject to the provisions of Subchapter 58.
- C. Landscaping. All development is subject to the landscaping provisions in Subchapter 54.
- D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Subchapter 90.
- E. Design Review. All new development and expansion of an existing structure or use in the CR Zone shall be subject to the Site Design Review procedures of Subchapter 80.
- F. Storm water Facilities. All storm water facilities shall comply with the requirements of Subchapter 55.
- G. 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. Existing access roads and access points shall be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

SUBCHAPTER 40

LIGHT INDUSTRIAL (IL) ZONE

40.005 Purpose

The purpose of the Light Industrial (IL) zone is to define and protect areas suitable for a wide range of light manufacturing and related activities.

40.010 Permitted Uses

Within any IL zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

- A. Appliance, office, and electrical equipment manufacture:
 - 1. Batteries;
 - 2. Communications equipment;
 - 3. Electrical industrial apparatus;
 - 4. Electrical lighting and wiring equipment;
 - 5. Electric transmission and distribution equipment;
 - 6. Electronic components and accessories;
 - 7. Household appliances;
 - 8. Office, computing, accounting equipment;
 - 9. Radio and television receiving sets.
- B. Motor freight depot;
- C. Billboard;
- D. Building supply manufacture, contracting, and allied trades:
 - 1. Building supply sales (wholesale only);
 - 2. Cabinet manufacture and installation;
 - 3. Heating and air-conditioning manufacture, repair, and service;
 - 4. Insulation and weather-stripping firm;

5. Plumbing fixture manufacture and installation;
 6. Roofing firm;
 7. Special trade contractor firms:
 - a. Cleaning and janitorial service;
 - b. Exterminating and fumigating services;
 - c. Floor laying firm;
 - d. Furnace cleaning service;
 - e. Masonry and stone-cutting firm;
 - f. Ornamental metal-working firm;
 - g. Painting and paperhanging firm;
 - h. Plastering;
 - i. Plumbing;
 - j. Sheet metal shop;
 - k. Special building equipment installation.
- E. Cement, clay, glass and stone products manufacturing facilities:
1. Abrasive and other non-metallic minerals;
 2. Concrete, gypsum, and plaster, excluding sand and gravel processing;
 3. Cut stone (monuments);
 4. Flat glass;
 5. Glass and glassware, pressed or blown;
 6. Glass products made of purchased glass;
 7. Pottery and related products;
 8. Structural clay.

- F. Chemicals and allied products manufacture:
 - 1. Perfumes, cosmetics, and other toilet preparations;
 - 2. Pharmaceutical.
- G. Food processing:
 - 1. Bakery products;
 - 2. Beverage industries (soft drinks, including bottling, flavoring extracts, etc);
 - 3. Confectionery and related products (candy, chocolate, chewing gum).
- H. Furniture and fixture manufacture:
 - 1. Custom cabinet, carpenter shop;
 - 2. Furniture repair, re-upholstery;
 - 3. Household furniture;
- I. Leather and leather products manufacture:
 - 1. Boots and shoes;
 - 2. Footwear from materials other than rubber;
 - 3. Handbags and other personal leather goods;
 - 4. Industrial leather belting and packing;
 - 5. Leather gloves and mittens;
 - 6. Luggage.
- J. Metal fabricated products manufacture:
 - 1. Cutlery, hand tools, and general hardware;
 - 2. Metal stampings;
 - 3. Sawmill equipment;
 - 4. Machinery manufacture.

- K. Miscellaneous uses:
1. Advertising sign or structure pertaining to the business conducted on the premises;
 2. Ambulance service;
 3. Appliance repair;
 4. Business office of a firm or industry;
 5. Dairy products (butter, ice cream, or cheese making; milk processing);
 6. Dwelling for a caretaker or watchman for the premises only;
 7. Fire station;
 8. Frozen food or cold storage locker and ice plant;
 9. Garden, crop cultivation;
 10. Greenhouse;
 11. Metal working equipment wholly within a building;
 12. Outdoor plant nursery;
 13. Parking lot or public garage;
 14. Public utility;
 15. "U-Haul" concrete mix store;
 16. Welding shop and blacksmith shop.
- L. Paper and allied products, assembly only.
- M. Printing, publishing and allied industries:
1. Books;
 2. Bookbinding and related industries;
 3. Commercial printing;
 4. Greeting card manufacturing;
 5. Manifold business forms manufacture;

6. Newspaper, publishing and printing;
 7. Periodical, publishing and printing.
- N. Recreational facilities:
1. Athletic club;
 2. Boxing arena;
 3. Gymnasium;
 4. Swimming pools;
 5. Tennis courts;
 6. Other public or private recreational facilities.
- O. Storage facilities:
1. Rental Storage units;
 2. Storage for furs and clothing;
 3. Storage for vehicles, boats, or other transportation equipment;
 4. Warehouse.
- P. Transportation equipment manufacture or repair:
1. Aircraft and parts;
 2. Aircraft and parts dealer, distributor;
 3. Boat building and repair;
 4. Boat sales and service;
 5. Motor vehicle and equipment painting, conducted wholly within a building;
 6. Rental and storage of motor vehicles;
 7. Tractor and heavy equipment sales and service;
 8. Trade or vocational school teaching heavy equipment use, repair, and service;

- 9. Utility equipment storage yard, and vehicle parking area.
- Q. Auction house or market (no livestock or poultry sales).
- R. Well-drilling and pump-repair facility;
- S. Wholesale firm (not open to general public);
- T. Wood and lumber products processing, manufacture, and storage:
 - 1. Millwork, (doors, windows, precut structures);
 - 2. Prefabricated structural wood products;
 - 3. Wooden containers;
 - 4. Wood fuel dealer.

40.015 Conditional Uses

If authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an IL zone:

- A. Chemicals, fertilizers, insecticides, paint and allied products manufacturing facilities:
 - 1. Fertilizers;
 - 2. Insecticides.
- B. Food, grain, feed, and derivative products processing facilities:
 - 1. Gelatin;
 - 2. Glue and size;
 - 3. Rendering.
- C. Meat products processing and manufacturing facilities (slaughtering, canning, curing, smoking, preserving).
- D. Paper and allied products manufacturing facilities:
 - 1. Building paper and building board;
 - 2. Converted paper and paperboard;

3. Paperboard containers and boxes.
- E. Underground storage of petroleum products.

40.020 Prohibited Uses

Within an IL zone, the following uses are prohibited:

- A. Residential dwellings of any kind, including dwellings or manufactured dwellings used for caretakers or night watch persons.
- B. Automobile wrecking yards;
- C. Other uses not expressly permitted under the provisions of Section 40.010.

40.025 Lot Area

The minimum area of any lot created in an IL zone shall be 5,000 square feet.

40.030 Lot Width

The minimum width at the front lot line of any lot created in the IL zone shall be 50 feet.

40.035 Yards

- A. Front Yard: No front yard shall be required in the IL zone.
- B. Side Yard: No side yard shall be required for any lot or parcel in an IL zone which does not adjoin property used for zones for residential uses. A side yard of five feet shall be provided on any side of a lot or parcel in an IL zone which adjoins property used or zoned for residential uses; such a side yard shall be bounded by a fence or sight-obscuring evergreen hedge at least six (6) feet high.
- C. Rear Yard: No rear yard shall be required for any lot or parcel in an IL zone which does not adjoin property used or zoned for residential uses. A rear yard of five feet shall be provided on any lot or parcel in an IL zone which has a rear lot line adjoining property used or zoned for residential uses; such a rear yard shall be bounded by a fence or sight-obscuring evergreen hedge at least six feet high.

40.040 Height

No building in an IL zone shall exceed a height of 45 feet.

40.045 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. Existing access roads and access points shall be used to the maximum extent possible to serve the

greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

40.060 Industrial Performance Standards

The discharge into the environment of solids, liquids, or gases in such quantities as to be detrimental to the public health, safety and welfare or to cause injury to human, plant, or animal life or to property is prohibited in this zone. In an IL zone, no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

A. Heat, glare, and light:

1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building; such heat and glare shall not be discernible at or beyond the property line;

2. Exterior lighting shall be directed away from and shall not reflect on adjacent properties.

B. Noise:

Noise shall be muffled and shall not be objectionable due to intermittence, frequency, or shrillness and shall not exceed the standards established by the State Department of Environmental Quality.

C. Sewage:

Adequate provision shall be made for the disposal of sewage and waste materials. Such provisions shall meet the requirements of the State Department of Environmental Quality.

D. Vibration:

No vibration, other than that caused by highway vehicles and trains, shall be permitted if such vibration will endanger the health, welfare, or safety of the public or constitute a public nuisance.

E. General Standards:

No activity shall be conducted in the IL zone which will cause the emission of noise, vibration, residue, discharge or odor which is offensive to the community.

40.065 Conditions

Conditions may be established by the Planning Commission for any use, activity, or structure subject to the site review provisions of the IL zone. Such conditions shall be the minimum necessary to insure that the purpose of the IL zone is accomplished. Guarantees and evidence that such conditions will be complied with may be reviewed.

SUBCHAPTER 41

HEAVY INDUSTRIAL (IH) ZONE

41.005 Purpose

The purpose of the Heavy Industrial (IH) zone is to define and protect areas suitable for manufacturing and heavy industry; for uses which are potentially incompatible with most other land uses, or for uses which require major rail, truck, or aircraft shipping facilities.

41.010 Permitted Uses

Within any IH zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

- A. Appliance, office, and electrical equipment manufacture:
 - 1. Batteries;
 - 2. Communications equipment;
 - 3. Electrical industrial apparatus;
 - 4. Electrical lighting and wiring equipment;
 - 5. Electric transmission and distribution equipment;
 - 6. Electronic components and accessories;
 - 7. Household appliances;
 - 8. Office, computing, accounting equipment;
 - 9. Radio and television receiving sets.
- B. Motor freight depot;
- C. Billboard;
- D. Building supply manufacture, contracting, and allied trades:
 - 1. Building supply sales (wholesale only);
 - 2. Cabinet manufacture and installation;
 - 3. Heating and air-conditioning manufacture, repair, and service;
 - 4. Insulation and weather-stripping firm;

5. Plumbing fixture manufacture and installation;
 6. Roofing firm;
 7. Special trade contractor firms:
 - a. Cleaning and janitorial service;
 - b. Exterminating and fumigating services;
 - c. Floor laying firm;
 - d. Furnace cleaning service;
 - e. Masonry and stone-cutting firm;
 - f. Ornamental metal-working firm;
 - g. Painting and paperhanging firm;
 - h. Plastering;
 - i. Plumbing;
 - j. Sheet metal shop;
 - k. Special building equipment installation.
- E. Cement, clay, glass and stone products manufacturing facilities:
1. Abrasive and other non-metallic minerals;
 2. Concrete, gypsum, and plaster, excluding sand and gravel processing;
 3. Cut stone (monuments);
 4. Flat glass;
 5. Glass and glassware, pressed or blown;
 6. Glass products made of purchased glass;
 7. Pottery and related products;
 8. Structural clay.

- F. Chemicals and allied products manufacture:
 - 1. Perfumes, cosmetics, and other toilet preparations;
 - 2. Pharmaceutical.
 - 3. Fertilizers;
 - 4. Insecticides;
 - 5. Paints.

- G. Food, grain, feed, and derivative products processing facilities:
 - 1. Livestock actions and sales, including feed lots;
 - 2. Slaughterhouse.

- H. Food processing:
 - 1. Bakery products;
 - 2. Beverage industries (soft drinks, including bottling, flavoring extracts, etc);
 - 3. Confectionery and related products (candy, chocolate, chewing gum).
 - 4. Cannery;
 - 5. Gelatin;
 - 6. Glue and size;
 - 7. Meat packing, slaughtering, smoking, curing, and preserving;
 - 8. Rendering.

- I. Furniture and fixture manufacture:
 - 1. Custom cabinet, carpenter shop;
 - 2. Furniture repair, re-upholstery;
 - 3. Household furniture;

- J. Leather and leather products manufacture:
 - 1. Boots and shoes;

2. Footwear from materials other than rubber;
 3. Handbags and other personal leather goods;
 4. Industrial leather belting and packing;
 5. Leather gloves and mittens;
 6. Luggage.
- K. Machinery manufacturing:
1. Construction and mining equipment;
 2. Engines and turbines;
 3. Farm machinery and equipment;
 4. General industrial machinery and equipment;
 5. Materials-handling machinery and equipment;
 6. Metal working equipment and machinery;
 7. Cutlery, handtools and general hardware;
 8. Metal stampings, castings, or fittings;
 9. Sawmill machinery.
- L. Metals, manufacture and processing;
1. Iron and steel;
 2. Non-ferrous metals;
 3. Primary smelting and refining of non-ferrous metals;
 4. Secondary smelting and refining of non-ferrous metals and alloys;
 5. Rolling, drawing and extruding of non-ferrous metals;
 6. Blast furnaces, steel rolling and finishing mills.
- M. Mining and quarrying:
1. Earth, topsoil, clay, and peat extraction;

2. Sand and gravel pits and quarries, including extraction from rivers and streams;
3. Rock crushing and preparing sand and gravel for construction uses or other special uses.

N. Miscellaneous Uses: Those miscellaneous uses as listed in Subchapter 40, Light Industrial Zone, Subsection 40.010N.

O. Paper and allied products, assembly and manufacture:

1. Building paper and building boards;
2. Converted paper and paperboard;
3. Paperboard (cardboard) containers and boxes;
4. Pulp mill.

P. Petroleum and petroleum by-products processing and storage:

1. Petroleum (including all processing and storage);
2. Paving and roofing materials;
3. Propane gas;
4. Asphalt;
5. Asphalt paving mix;
6. Creosote and creosote products;
7. Oil reconditioning;
8. Turpentine.

Q. Printing, publishing and allied industries:

1. Books;
2. Bookbinding and related industries;
3. Commercial printing;
4. Greeting card manufacturing;

5. Manifold business forms manufacture;
 6. Newspapers, publishing and printing;
 7. Periodicals, publishing and printing.
- R. Professional, scientific and control equipment manufacture:
1. Engineering, laboratory, scientific, and research instruments and associated equipment;
 2. Instruments for measuring, indicating, and controlling physical characteristics;
 3. Optical equipment instruments, lenses;
 4. Surgical, medical, and dental instruments and supplies;
 5. Watches, clocks, clockwork operated devices and parts.
- S. Recreational facilities:
1. Athletic club;
 2. Boxing arena;
 3. Gymnasium;
 4. Swimming pools;
 5. Tennis courts;
 6. Other public or private recreational facilities.
- T. Storage facilities:
1. Rental storage units;
 2. Storage for furs and clothing;
 3. Storage for vehicles, boats, or other transportation equipment;
 4. Warehouse.
- U. Transportation equipment manufacture, repair, or storage:
1. Aircraft and parts;

2. Aircraft and parts dealer, distributor;
 3. Boat building and repair;
 4. Boat sales and service;
 5. Motor vehicle and equipment painting, conducted wholly within a building;
 6. Motor vehicle parts manufacture and assembly;
 7. Rental and storage of motor vehicles;
 8. Tractor and heavy equipment sales and service;
 9. Trade or vocational school teaching heavy equipment use, repair, and service;
 10. Utility equipment storage yard, and vehicle parking area.
- V. Well-drilling and pump-repair facility;
- W. Wholesale firm (not open to general public);
- X. Wood and lumber products processing, manufacture, and storage:
1. Millwork, (doors, windows, precut structures);
 2. Prefabricated structural wood products;
 3. Sawmill or planing mill;
 4. Veneer, plywood, or pressure-formed product manufacture;
 5. Wooden containers;
 6. Wood fuel dealer.

41.015 Prohibited Uses

Within an IH zone, the following uses are prohibited:

- A. Residential dwellings of any kind, including dwellings or manufactured dwellings used for caretakers or night watch persons.
- B. Automobile wrecking yards.
- C. Other uses not expressly permitted under the provisions of Section 41.010.

41.020 Height

Within an IH zone, no building shall exceed a height of 70 feet.

41.025 Lot Area

The minimum area of any lot or parcel within an IH zone shall be 5,000 square feet.

41.030 Lot Width

The minimum width at the front lot line of any lot in the IH zone shall be 50 feet.

41.035 Yards

- A. Front Yards: No front yard shall be required in the IH zone.
- B. Side Yards: No side yard shall be required for any lot or parcel in an IH zone which does not adjoin property used or zoned for residential uses. A side yard of five feet shall be provided on any side of a lot or parcel in an IH zone which adjoins property used or zoned for residential uses; such a side yard shall be bounded by a fence or sight-obscuring evergreen hedge at least six (6) feet high.
- C. Rear Yards: No rear yard shall be required for any lot or parcel in an IH zone which does not adjoin property used or zoned for residential uses. A rear yard of five feet shall be provided on any lot or parcel in an IH zone which has a rear lot line adjoining property used or zoned for residential uses; such a rear yard shall be bounded by a fence or sight-obscuring evergreen hedge at least six feet high.

41.040 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. Existing access road and access points shall be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

41.055 Industrial Performance Standards

The discharge into the environment of solids, liquids, or gases in such quantities as to be detrimental to the public health, safety and welfare or to cause injury to human, plant, or animal life or to property is prohibited in this zone. In an IH zone, no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

- A. Heat, glare, and light:
 - 1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building; such heat and glare shall not be discernible at or beyond the property line;

2. Exterior lighting shall be directed away from and shall not reflect on adjacent properties.

B. Noise:

Noise shall be muffled and shall not be objectionable due to intermittence, frequency, or shrillness and shall not exceed the standards established by the State Department of Environmental Quality.

C. Sewage:

Adequate provisions shall be made for the disposal of sewage and waste materials. Such provisions shall meet the requirements the State Department of Environmental Quality.

D. Vibration:

No vibration, other than that caused by highway vehicles and trains, shall be permitted if such vibration will endanger the health, welfare, or safety of the public or constitute a public nuisance.

E. General Standards:

No activity shall be conducted in the IH zone which will cause the emission of noise, vibration, residue, discharge or odor which is offensive to the community.

41.060 Conditions

Conditions may be established by the Planning Commission for any use, activity, or structure subject to the site review provisions of the IH zone. Such conditions shall be the minimum necessary to insure that the purpose of the IH zone is accomplished. Guarantees and evidence that such conditions will be complied with may be reviewed.

SUBCHAPTER 42

INDUSTRIAL PARK

42.005 Purpose

The Industrial Park Zone is intended to accomplish the following purposes:

- A. To define and protect areas for manufacturing and related industrial activities;
- B. To ensure that such activities are developed and maintained so as to be compatible with immediately surrounding land uses and the general community;
- C. To provide standards and review procedures by which such compatibility can be assured.

42.010 Permitted Uses

Within any IP zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except those uses listed in this section and found to be in conformance with the review procedures of section 42.045 and below:

- A. Appliances, office and electrical product equipment manufacture:
 - 1. Battery manufacture;
 - 2. Communications equipment;
 - 3. Electrical industrial apparatus;
 - 4. Electrical lighting and wiring equipment;
 - 5. Electric transmission and distribution equipment;
 - 6. Electronic components and accessories;
 - 7. Household appliances;
 - 8. Office, computing, accounting equipment;
 - 9. Radio and television receiving sets.
- B. Building supply manufacture, contracting, and allied trades:
 - 1. Building supply sales (wholesale only);
 - 2. Cabinet manufacture and installation;

3. Heating and air-conditioning manufacture, repair, and service;
 4. Insulation and weather-stripping firm;
 5. Plumbing fixture manufacture and installation;
 6. Roofing firm;
 7. Business sign and outdoor advertising, sales and service;
 8. Special trade contractor firms:
 - a. Cleaning and janitorial service;
 - b. Exterminating and fumigating services;
 - c. Floor laying firm;
 - d. Furnace cleaning service;
 - e. Masonry and stone-cutting firm;
 - f. Ornamental metal-working firm;
 - g. Painting and paperhanging firm;
 - h. Plastering;
 - i. Plumbing;
 - j. Sheet metal shop;
 - k. Special building equipment installation.
- C. Chemicals and allied products manufacture:
1. Perfumes, cosmetics, and other toilet preparations;
 2. Pharmaceutical.
- D. Food processing:
1. Bakery products;
 2. Beverage industries (soft drinks, including bottling, flavoring extracts, etc);
 3. Confectionery and related products (candy chocolate, chewing gum).

- E. Furniture and fixtures manufacture:
 - 1. Custom cabinet, carpenter shop;
 - 2. Furniture repair, re-upholstery;
 - 3. Household furniture.
- F. Leather and leather products manufacture:
 - 1. Boots and shoes;
 - 2. Footwear from materials other than rubber;
 - 3. Handbags and other personal leather goods;
 - 4. Industrial leather belting and packing;
 - 5. Leather gloves and mittens;
 - 6. Luggage.
- G. Metal fabricated products manufacture:
 - 1. Cutlery, handtools, and general hardware.
- H. Miscellaneous Uses: Those miscellaneous uses as listed in Subchapter 40, Light Industrial Zone, Subsection 40.010N, Miscellaneous Uses.
- I. Paper and allied products assembly.
- J. Printing, publishing and allied industries:
 - 1. Books;
 - 2. Bookbinding and related industries;
 - 3. Commercial printing;
 - 4. Greeting card manufacture;
 - 5. Manifold business forms manufacture;
 - 6. Newspaper, publishing and printing;
 - 7. Periodicals, publishing and printing.

- K. Professional, scientific and control equipment manufacture:
 - 1. Engineering, laboratory, scientific, and research instruments and associated equipment;
 - 2. Instruments for measuring, indicating, and controlling physical characteristics;
 - 3. Optical equipment instruments, lenses;
 - 4. Surgical, medical, and dental instruments and supplies;
 - 5. Watches, clocks, clockwork operated devices and parts.

- L. Recreational facilities:
 - 1. Athletic club;
 - 2. Boxing arena;
 - 3. Gymnasium;
 - 4. Swimming pools;
 - 5. Tennis courts;
 - 6. Other public or private recreational facilities.

- M. Storage facilities:
 - 1. Rental storage units;
 - 2. Storage for furs and clothing;
 - 3. Storage for vehicles, boats, or other transportation equipment.

- N. Transportation equipment manufacture or repair:
 - 1. Aircraft and parts;
 - 2. Aircraft and parts dealer, distributor;
 - 3. Boat building and repair;
 - 4. Boat sales and service;
 - 5. Motor vehicle and equipment painting, conducted wholly within a building.

6. Rental and storage of motor vehicles;
 7. Tractor and heavy equipment sales and service;
 8. Trade or vocational school teaching heavy equipment use, repair, and service;
 9. Utility equipment storage yard, and vehicle parking area;
 10. Warehouse;
 11. Well-drilling and pump-repair facility.
- O. Wholesale firm (not open to general public).
- P. Wood and lumber products processing, manufacture, and storage:
1. Millwork (doors, windows, precut structures);
 2. Prefabricated structural wood products;
 3. Wooden containers.

42.015 Conditional Uses

Within an IP zone, other industrial uses not permitted under Section 42.010 above may be permitted in accordance with the conditional use procedures specified in Section 71, provided that such uses conform to the review procedures of Section 42.045 below.

42.020 Prohibited Uses

Within an IP zone, the following uses are prohibited:

- A. Residential dwellings of any kind, including dwellings or manufactured dwellings used for caretakers or night watch persons.
- B. Automobile wrecking yards.
- C. Other uses not expressly permitted under the provisions of Section 41.010.

42.025 Height

Within an IP zone, no building shall exceed a height of 45 feet.

42.030 Lot Area

The minimum area of any lot or parcel within an IP zone shall be 10,000 square feet.

42.035 Yards

- A. Front Yard: There shall be a front yard on every lot or parcel in an IP zone. Such a yard shall have a depth of at least 20 feet. No front yard shall be used as a loading parking, or storage area. Additional yard area, depth, landscaping, or other requirements in addition to those specified in this section may be required in accordance with the site review provisions of Section 42.045 below.
- B. Side and Rear Yards: There shall be side yards and a rear yard on every lot or parcel in an IP zone. Such yards shall have a depth of at least 10 feet. No rear or side yards shall be required adjacent to a railroad, railroad siding, or spur track. Additional yard area, depth, landscaping, or other requirements in addition to those specified in this section may be required in accordance with those specified in this section may be required in accordance with the site review provisions.

42.050 Industrial Performance Standards

The discharge into the environment of solids, liquids, or gases in such quantities as to be detrimental to the public health, safety and welfare or to cause injury to human, plant, or animal life or to property is prohibited in this zone. In an IP zone, no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

- A. Heat, glare, and light:
1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building; such heat and glare shall not be discernible at or beyond the property line.
 2. Exterior lighting shall be directed away from and shall not reflect on adjacent properties.
- B. Noise: Noise shall be muffled and shall not be objectionable due to intermittence, frequency, or shrillness and shall not exceed the standards established by the State Department of Environmental Quality.
- C. Sewage: Adequate provisions shall be made for the disposal of sewage and waste materials. Such provisions shall meet the requirements of the State Department of Environmental Quality.
- D. Vibration: No vibration, other than that caused by highway vehicles and trains, shall be permitted if such vibration will endanger the health, welfare, or safety of the public or constitute a public nuisance.
- E. General Standards: No activity shall be conducted in the IP zone which will cause the emission of noise, vibration, residue, discharge or odor which is offensive to the community.

42.055 Conditions

Conditions may be established by the Planning Commission for any use, activity, or structure subject to the site review provisions of the IP zone. Such conditions shall be the minimum necessary to ensure that the purpose of the IP zone is accomplished. Guarantees and evidence that such conditions will be complied with may be reviewed.

SUBCHAPTER 48

RESIDENTIAL SINGLE FAMILY AIRPARK OVERLAY (RSA) ZONE

48.005 Purpose and Intent:

The purpose of this Subchapter is to recognize the impacts and hazards associated with the operation of the Independence State Airport, and the uniqueness of airpark-type development. It is the intent of this chapter to promote the public health and safety in the vicinity of airfields by minimizing exposure to crash hazards and high noise levels generated by air field operations by encouraging future development which is compatible with the continued operation of airfields, and established Airpark development.

48.010 Definitions: As used in this Subchapter, the following terms are defined:

AIRPORT HAZARD: Any Structure over 35 feet in height, or object of natural growth, use of land or item determined by the Federal Aviation Administration (FAA) and Oregon Department of Aviation, which obstructs or interferes with the airspace required for the flight of aircraft in landing or taking off at the airfield, and any use of land which is injurious to persons or property because of its proximity to the airfield.

LAND USE, COMPATIBLE: The use of land so defined by this Ordinance.

RESIDENTIAL, AIRPARK DEVELOPMENT: Existing or proposed single-family residential development where the majority of homes have or will have aircraft hangars in addition to single-family homes. Also, all existing or proposed lots having rear lot lines abutting an existing or proposed aircraft taxi way.

RUNWAY: A defined area on an airport prepared for landing and takeoff of aircraft along its length. The runway includes any proposed new runway or runway extension shown on an Airport Master Plan or other planning document.

TREE: Any object of natural growth.

WATER SURFACES: For the purposes of this Subchapter, water surfaces shall have the same meaning as land for the establishment of protective zones.

48.015 RSA Overlay Height Limitations.

Except as otherwise provided in this Subchapter, no structure shall be erected, altered, or maintained, in any zone created by this Ordinance to a height in excess of the applicable height limitations already established in the base zoning districts.

- A. Excepted Height Limitations: Nothing in this Chapter shall be construed as prohibiting the growth of any tree to a height up to fifty (50') above the surface of the land.

B. Proposed structures which exceed the maximum height in the base zoning district would be permitted upon the approval of a Variance in accordance with Chapter 70. The appropriateness of the request for the Variance may be evaluated by use of comments from the Federal Aviation Administration and/or Oregon Department of Aviation.

48.020 RSA Overlay Zone - Map and Boundary

A. Establishment of RSA Zoning Map: The RSA Overlay Zone herein established is shown on the official City of Independence Zoning Map.

B. RSA Overlay Zoning Boundary. The RSA Overlay Zoning boundary lines shown on the official Zoning Map shall be located as to include all property within city limits between Hoffman Road north to city limits and between the Independence State Airport runway and Stryker Road. Excluding the commercial area between Airport Drive and said runway, south of Cherokee Taxiway. The RSA boundary is attached as Exhibit "A" of this subchapter.

48.025 Permitted Uses.

The use of the land and buildings must be in compliance with the base zoning district as established by the Official City of Independence Zoning Map, and is further limited to the following permitted uses for the RSA Overlay Zone:

A. Residential Airpark Development.

B. Accessory uses and structures:

1. Aircraft Hangar. No aircraft hangar shall be constructed on any parcel or lot without an existing residential dwelling. An aircraft hangar cannot be used as a residence.

Notwithstanding any other provisions of this Subchapter, no use may be made of land or water within the zone established by the Chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airfield and aircraft, make it difficult for pilots to use the airfield, impair visibility in the vicinity of the airfield, create bird strike hazards, or otherwise materially endanger or interfere with the landing, take off, or maneuvering of aircraft intending to use the airfield; such as buildings with reflective glass or any type of reflective/glare producing exterior, high intensity recreation type lights (especially on high standards), smoke, antennas, microwave towers, ham radio towers, open water impoundment, land fills, garbage dumps, or incinerators, or high tension transmission lines.

48.030 Supplementary RSA Overlay Provisions.

A. Avigation Easement. When a subdivision plan or lot split is required for any property within the RSA Overlay Zone, the property owner shall dedicate an

avigation easement to the City and Oregon Department of Aviation over and across that property. The easement shall hold the City, Oregon Department of Aviation, public and airfield, harmless from any damages caused by noise, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near the airfield, not including the physical impact of aircraft or parts thereof.

B. Notification of Buyers. No person shall sell, nor offer for sale, any property within the RSA Overlay Zone unless the prospective buyer has been notified of the fact that the property is within the RSA Overlay Zone.

C. Land Use Exemptions. Existing subdivision plats, existing zoning, existing building permits, and any comprehensive plans adopted prior to the adoption of this Subchapter are excepted from the foregoing land use prohibitions and discouragements. However, the requirements for aviation easements and buyer/lessor notification apply to those exempted uses when a lot split is required or when a parcel and/or building is to be sold.

48.035 Density.

The density of residential development upon any parcel or lot in the RSA Zone shall not exceed three dwelling units per acre.

48.040 Lot Frontage.

Each lot in the RSA Zone shall have a minimum of 75 feet of frontage on a public street.

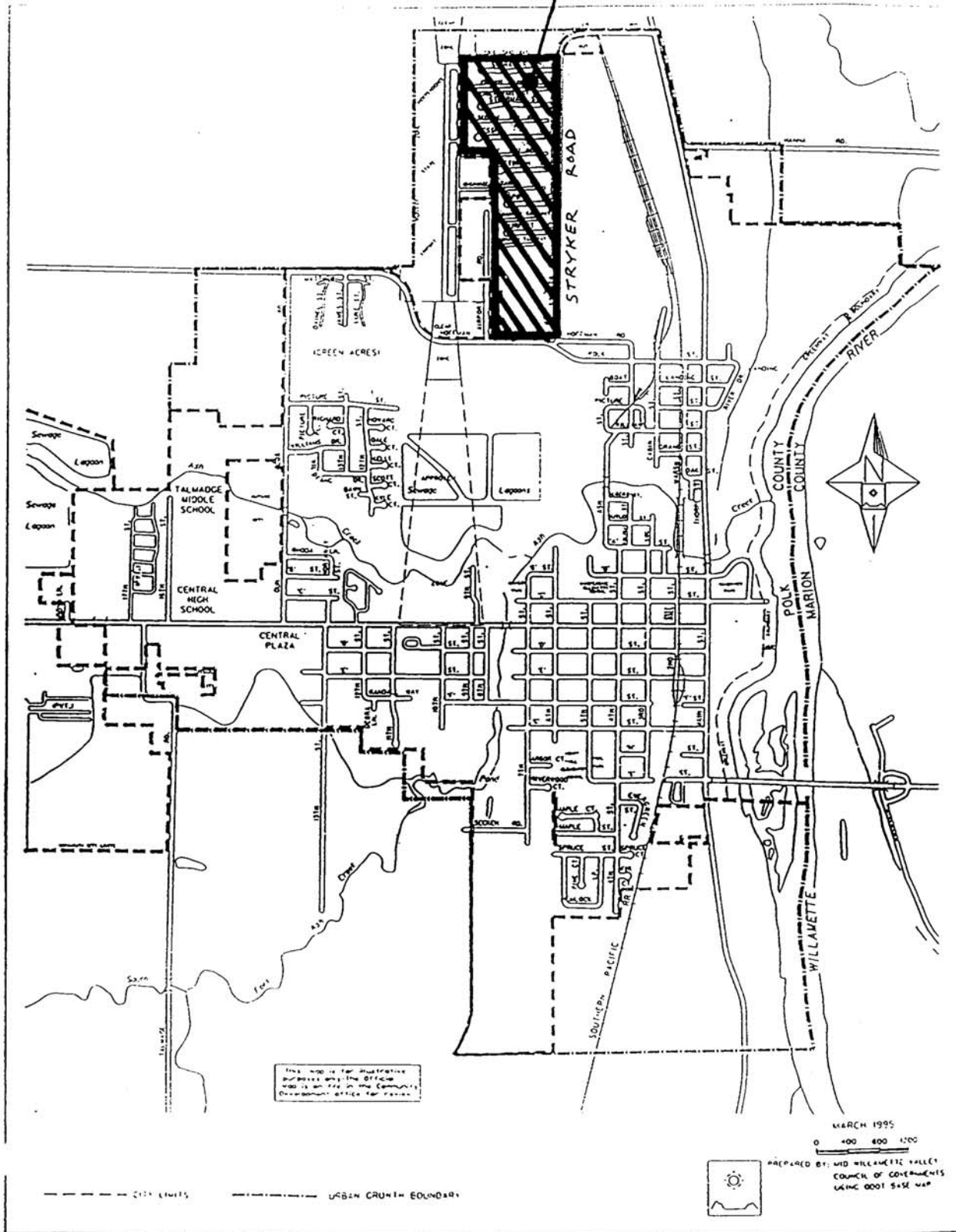
48.045 Lot Width.

The minimum width at the front property line of any lot created in the RSA Zone shall be 75 feet.

48.050 Lot, Rear Property Line.

Any lot created in the RSA Zone will have a rear property line which abuts an existing or proposed taxiway.

RSA OVERLAY ZONE



SUBCHAPTER 50

PUBLIC SERVICES (PS) ZONE

50.005 Purpose

The purpose of the Public Services (PS) zone is to define and protect areas suitable for structures and use owned or operated by governmental agencies or for public uses and facilities serving the general community.

50.010 Permitted Uses

Within any PS zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

- A. Auditorium;
- B. College, university or community college;
- C. Dwelling or manufactured dwelling for a caretaker or watchman;
- D. Municipal golf course;
- E. Municipal or government service structure or use, including, but not limited to, a reservoir, water tower, pump station, bus terminal or station, fire station, transformer station or sub-station;
- F. Parkway;
- G. Public park (non-commercial);
- H. Public playground (non-commercial);
- I. School or institution for the handicapped, provided that it is non-residential;
- J. School;
- K. Stadium;
- M. Library;
- N. Recreation center.

50.015 Conditional Uses

If authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in a PS zone:

- A. Cemetery;
- B. Commercial utilities for the purpose of generating power for sale to the public, including, but not limited to, turbine, thermo-nuclear, geothermal, or hydroelectric installations;
- C. Detention and correctional home, institution, or school;
- D. Hospital;
- E. Hospital and institution for the mentally retarded;
- F. Penal institution;
- G. Public or private solid waste disposal site, solid waste transfer facility, sanitary land fill;
- H. Reformatory;
- I. Residential school for the handicapped.

50.020 Abandonment of Use or Transfer of Ownership

Whenever the existing use on any lot zoned PS is abandoned or the property is transferred to private ownership for a different use, the Planning Commission shall initiate the zone change process as provided in Subchapter 12.

50.025 Height

No building or structure in a PS zone shall exceed 60 feet in height.

50.030 Yards

- A. Front Yard: There shall be a front yard of at least 20 feet on every lot in a PS zone. No parking of motor vehicles shall be permitted in the required front yard.
- B. Side Yard: There shall be a side yard of at least five feet on each side of any lot in a PS zone. The minimum depth of any side yard adjoining a street shall be 20 feet; no parking of motor vehicles shall be permitted in the first ten feet of such a required side yard that adjoins the street.
- C. Rear Yard: There shall be a rear yard of at least 20 feet on any lot in a PS zone.

50.035 Additional Yard Requirements for Tall Buildings

In a PS zone, the minimum front, side and rear yard requirements shall be increased by one foot for each foot of building height above 35 feet.

50.040 Lot Coverage

No main building shall occupy more than 50% of the area of any lot in a PS zone.

50.045 Minimum Lot Area

There shall be no requirement for the minimum area of any lot in a PS zone.

50.050 Parking

Parking and loading spaces for uses and activities in the PS zone shall be provided in accordance with the requirements of Subchapter 73, "Parking".

SUBCHAPTER 51

FLOOD DAMAGE PREVENTION ORDINANCE

51.005 Statement of Purpose and Methods of Reducing Flood Losses

A. It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

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

B. In order to accomplish its purposes, this ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

51.010 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application:

- A. "APPEAL" means a request for a review of the interpretation by the City Manager or designee of any provision of this ordinance or a request for a variance.
- B. "AREA OF SHALLOW FLOODING" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- C. "AREA OF SPECIAL FLOOD HAZARD" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
- D. "BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on maps always includes the letters A or V.
- E. "BASEMENT" means any area of the building having its floor subgrade (below ground level) on all sides.
- F. "CITY" means the City of Independence, Oregon.
- G. "DEVELOPMENT" means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
- H. "FLOOD" or "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters; and/or
 2. The unusual and rapid accumulation of run-off of surface waters from any source.

- I. "FLOOD INSURANCE RATE MAP (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- J. "FLOOD INSURANCE STUDY" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
- K. "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.
- L. "LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 51.035B(1)(b).
- M. "MANUFACTURED DWELLING" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured dwelling" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
- N. "MANUFACTURED DWELLING PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.
- O. "NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.
- P. "START OF CONSTRUCTION" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

- Q. Recreational Vehicle: A vehicle which is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- R. "STRUCTURE" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.
- S. "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 occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

T. "VARIANCE" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

51.015 Permitted Uses

Within any Flood Plain Overlay zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

- A. Customary cleaning or maintenance of a stream or drainage channel;

- B. The placing of signs, markers, aids, etc., by a public agency;
- C. Garden, orchard, crop cultivation or other farm use as defined in ORS 215.213, but not including farm buildings;
- D. Playground or park;
- E. Patio, deck, porch, shelter for domestic pets, fence or similar structure accessory to a residence, but not including accessory buildings such as garages, greenhouses, hobby shops, and guest houses;
- F. Parking or storage area of vehicles, boats, campers, trailers, or recreational vehicles;
- G. Reasonable emergency procedures necessary for the safety or protection of property;
- H. Maintenance and repair usual and necessary for the continuance of an existing use;
- I. Landscaping, construction of driveways, and repair or maintenance of existing structures, provided that such activities are conducted in conjunction with the uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this Chapter;
- J. Structure necessary for the City or for a public utility to provide service to the neighborhood in which it is located. Such structures shall include, but not be limited to the following:
 - 1. Electric service meters, lines, transformers, and poles;
 - 2. Natural gas lines;
 - 3. Telephone lines and poles;
 - 4. Water and sewer lines;
 - 5. Streets and sidewalks.

51.020 General Provisions

- A. Lands to Which this Ordinance Applies: This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Independence, Oregon.
- B. Basis for Establishing the Areas of Special Flood Hazard: The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and

engineering report entitled "The Flood Insurance Study for the City of Independence", dated April 5, 1988, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at City Hall, 240 Monmouth Street, Independence, Oregon.

C. Penalties for Noncompliance: No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of the conditions and safeguards established in connection with conditions) shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$2,500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

D. Abrogation and Greater Restrictions: This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation: In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body;
3. Deemed to neither limit nor repeal any other powers granted under State statutes.

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

51.025 Administration

A. Establishment of Development Permit:

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 51.020(B). The permit shall be for all structures, including manufactured homes, as set forth in the "DEFINITIONS", and for all development including fill and other activities, also as set forth in the "DEFINITIONS".

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

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 51.035(B); and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. Designation of the City Manager. The City Manager or designee is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

C. Duties and Responsibilities of the City Manager or Designee. Duties of the City Manager or designee shall include, but not be limited to:

1. Permit Review

- a. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 51.035(C)(1) are met.

D. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 51.020(B), Basis for Establishing the Areas of Special Flood Hazard, the City Manager's designee shall obtain, review, and reasonably utilize any base flood evaluation and floodway data available from a Federal, State or other source, in order to administer Sections 51.035(B), Specific Standards, and 51.035(C), Floodways.

E. Information to be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 51.025(D), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. Certification by surveyor.

2. For all new or substantially improved floodproofed structures:

i. Verify and record the actual elevation (in relation to mean sea level), and

ii. Maintain the floodproofing certifications required in Section 51.025(A)(2).

3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

F. Alteration of Watercourse.

1. Notify adjacent communities and the Oregon Division of State Lands prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

G. Interpretation of Firm Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 51.030.

51.030 Variance Procedure

A. Appeal Board

1. The Planning Commission as established by the city shall hear and decide appeals and requests for variances from the requirements of this ordinance.

2. The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Manager's designee in the enforcement or administration of this ordinance.

3. Those aggrieved by the decision of the Planning Commission, may appeal such decision to the City Council, as provided in 11.045 of the Independence Zoning Code.

4. In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable.

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Upon consideration of the factors of Section 51.030(A)(4) and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

6. The Planning Commission shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

B. Conditions for Variances

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 51.030(A)(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety,

extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 51.030 (A)(4), or conflict with existing local laws or ordinances.

6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 51.030(B), and otherwise complies with Sections 51.035(a)(1) and (2) or the GENERAL STANDARDS.

8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

51.035 Provisions for Flood Hazard Reduction

A. General Standards:

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

1. Anchoring

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

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

2. Construction Materials and Methods
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
3. Utilities
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
4. Subdivision Proposals
 - a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
 - d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 4 lots or one-half acre (whichever is less).
5. Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 51.025(D)), applications

for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

B. Specific Standards:

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 51.020 B, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 51.025 D, USE OF OTHER BASE FLOOD DATA, the following provisions are required:

1. Residential Construction

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

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

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

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

2. Nonresidential Construction

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

a. Be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water;

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

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 51.025(E)(2);

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 51.035(B)(1)(b);

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

3. Manufactured Homes

All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection 51.035(A)(1)(b).

C. Floodways:

Located within areas of special flood hazard established in Section 51.020 B are areas of designated as Floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

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

2. If Section 51.035(C)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provision of Section 51.035, PROVISIONS FOR FLOOD HAZARD REDUCTION.

SUBCHAPTER 52

WILLAMETTE GREENWAY DEVELOPMENT DISTRICT

52.005 Purpose

The purpose of the Willamette Greenway Development District are the following:

- A. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River.
- B. To implement the Independence Comprehensive Plan.
- C. To implement the City's responsibilities pursuant to statutory requirements.
- D. To establish criteria, standards and procedures for the intensification of uses, changes of uses, or development of lands within the GREENWAY Development District.
- E. To minimize the need for a public hearing for each development application.
- F. To ensure those who occupy the area within the GREENWAY District assume the responsibility of their actions.

52.010 Definitions

- A. Administrative review means inspection of a site plan in order to review compatibility with the primary and overlying zone and to determine if the intensification, change of use or development requires a conditional use hearing and to insure that development requirements are met and zone guidelines are adhered to. The administrative review is to be done by the City Manager or designee.
- B. Change of use means a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. Such changes of use include, but are not limited to storage of materials on a previously vacant site, construction or expansion of marine facilities or parking lots, or construction or major remodeling of a structure. It does not include a change of use of a building or other structure which does not substantially alter or affect the land upon which it is situated. change of use shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building.
- C. Development means the act, process or result of developing.

D. Develop means to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights of access.

E. Intensification means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975. Maintenance and repair, usual and necessary, for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or protection of property are not an intensification of use. Residential use of land within the GREENWAY includes the practices and activities customarily related to the use and enjoyment of ones home. Landscaping, construction of driveways, modification of existing structures, or construction or placement of such accessory structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification. Seasonal increases in gravel operations shall not be considered an intensification of use.

F. River Dependent Use means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

G. River Related Use means a use which is not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

H. Site Plan means a vertical depiction of a site within the GREENWAY boundary that is the subject of the administrative review process. It will indicate access, structures, setbacks, height, prominent landscape features and other such information as required by the Administrative Reviewer.

I. Willamette Greenway Development District means all land within the City of Independence lying east of the boundary as depicted on the Willamette Greenway Map of the City of Independence, hereby adopted as Exhibit C.

52.015 Application of Willamette Greenway Development District

A. The provisions of this chapter shall apply to all lands within the Greenway boundary as designated on the Willamette Greenway map.

B. The provisions of this chapter shall apply to lands within the Greenway Development District in addition to the standards and requirements of any primary zone that may apply to such lands. A portion of land subject to this zone is also subject to the flood plain overlay zone. In no way is one overlay zone intended to conflict or over-ride the other overlay zone. They are intended to be applied simultaneously to the primary zone. In the case of any conflict between the

provisions of this chapter and the provisions of any other chapter of this ordinance, the more restrictive provisions shall apply.

52.020 Site Development Requirements

For any lot or parcel located within the Greenway Development District the requirements for the following shall be determined by the primary zone except when such requirements are specifically modified by this chapter:

- A. Minimum area;
- B. Maximum density;
- C. Front Yard;
- D. Side yard;
- E. Rear yard;
- F. Building height;
- G. Lot or parcel coverage;
- H. Off street parking and loading; and
- I. Signs.

52.025 Permitted Uses

A Greenway review approval shall not be required for the following in overlay zones specified:

- A. Gravel removal from the bed of the Willamette River conducted under a permit from the State of Oregon; (WG-I)
- B. Customary dredging and channel maintenance, (all zones);
- C. The placing by a public agency of signs, markers, aids, etc., to serve the public, (all zones);
- D. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands, (WG-PP);
- E. On scenic easements acquired under ORS 390.332 (2)(a), the maintenance authorized by that statute and ORS 390.368, (all zones);
- F. The maintenance and repair of existing flood control facilities, (all zones);

- G. Any use permitted in the primary zone and after administrative review, not considered an intensification, change of use, or development;
- H. Reasonable emergency procedures necessary for the safety or protection of property, (all zones);
- I. Maintenance and repair usual and necessary for the continuance of an existing use, (all zones);
- J. Landscaping, construction of driveways, and repair or maintenance of existing structures, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this chapter, (all zoned).

52.030 Administrative Review Approval Required

All development, change of use or intensification within the Willamette Greenway Development District requires Administrative Review prior to issuance of a building permit. Administrative Review does not require a hearing and approval will be given if the proposal is consistent with the Primary Zone and adequately meets the guidelines of the appropriate overlay zone. Additional standards that must be met prior to Administrative Review Approval are as follows:

- A. The proposed use or structure is consistent with the purpose of the Willamette Greenway Development District.
- B. Administrative Review Approval shall not be given for any structure over 30 feet in height.

A public hearing may be required as a result of Administrative Review, if:

- A. The Administrative Reviewer is not convinced that the application or site plan adequately represent an intent to carry out the purpose of the Greenway.
- B. The proposed use is not consistent with the Primary Zone or overlaying zone.
- C. After Administrative Review there are still unanswered questions in the opinion of the Reviewer.
- D. A guideline is not adequately met or if a determination as to whether it is or isn't being met can be made from the application and site plan.

52.035 Conditional Use Approval Required

A conditional use permit is required if during the Administrative Review process it is determined that the proposed use is not consistent with either the Primary Zone or the overlay zone guidelines. The conditional use permit procedure requires a public hearing as prescribed by Subchapter 71 of this ordinance. If the proposed use is a prohibited use in the

Primary Zone of is not a conditional use, it may require approval of a different type of action. Standards for conditional use permit approvals are as follows:

- A. A decision on a Greenway conditional use application shall be based on findings of compatibility with all elements of the Willamette Greenway section of the Comprehensive Plan..
- B. The proposed use or structure is consistent with the purpose of the Willamette Greenway Development District.

52.036 Appeal Period and Notice Requirements

- A. Any land use action or ruling made by the City Manager or designee in accordance with the provisions of this subchapter may be appealed. Such an appeal shall be directed to the Planning Commission; it shall be filed in writing with the City Manager or designee no later than 12 days of the date of the decision. If no appeal is filed within 12 days of the decision, that decision shall be final.
- B. If an appeal is filed, the Planning Commission shall be given a report of the City Manager or designee's action or ruling. The Planning Commission shall hold a public hearing of the appeal. Notice for such a public hearing shall be provided in accordance with the provisions for public hearings set forth in this ordinance. The public hearing of an appeal shall be conducted in accordance with the procedures for public hearings set forth in this ordinance. The decision of the Planning Commission regarding any appeal shall constitute a final local decision.
- C. Notification of the proposed land use action and administrative decision shall be sent to:
 - 1. Oregon State Department of Transportation (State Parks Branch) by certified mail, with return receipt requested.
 - 2. Polk Soil and Water Conservation District.
 - 3. Division of State Lands.
 - 4. Residents with 250 feet of affected property.

WILLAMETTE GREENWAY DEVELOPMENT

DISTRICT OVERLAY DESIGNATIONS

52.040 Industrial (WG-1)

Intent: To insure the opportunity for continuing industrial operation, especially that which is river dependent and river related.

Guidelines:

A. The development of new, or the intensification of existing river dependent and river related industrial uses within this overlay zone and may be permitted if the applicant demonstrates that:

1. The use is actually river dependent or related.
2. Other elements of this ordinance and the Comprehensive Plan are not contrary to the use.

B. The development of new, or the intensification of existing non-river dependent and non-river related industrial uses within this overlay zone shall not be approved unless the applicant demonstrates that:

1. There is a low demand for river dependent or river related industrial sites.
2. The site of the proposed development is not particularly well adapted for river dependent or river-related industrial uses.
3. There are no available industrial sites outside the Greenway that can accommodate the proposed use.
4. The current operation is no longer a viable endeavor and serves no public need.

C. Landscaping which preserves or re-establishes the river's natural vegetative fringe shall be required where and as it does not interfere with the industrial operation or economic function of the proposed use. Such landscaping shall consist of plant materials native to the Willamette River and be of sufficient depth to provide a screening of the proposed use from the river.

D. The development of new non-industrial uses shall only be permitted after zone change approval by the city. Conditional use approval of any non -industrial proposal may be granted only if the following findings can be made:

1. There is a low demand for river-related industrial sites and the site of the proposed development is not particularly well adapted for river related industrial uses.

52.045 Commercial and Residential

Intent: To insure the continued opportunity for utilization of privately owned property for commercial or residential uses consistent with the primary zone and not subject to flooding.

Guidelines:

A. Proposals to change or intensify land uses within this zone shall be permitted if the development complies with all of the following criteria:

1. The proposed use is permitted by the primary zone.
2. The scale of the project, density of development and/or intensity of use is in keeping with the function of the Greenway Plan and protects, conserves, enhances and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the River, the site and adjacent riparian lands.
3. Uses which are not directly dependent on the river are set back landward from the 100-year flood plain line to protect public safety, open space, vegetation, scenic resources and public access to and along the river as outlined in the Comprehensive Plan.
4. The proposed development is in harmony with existing and proposed adjoining development, land uses, and zones.
5. Proposed landscaping is to be of native plant materials commonly found along the river, and be of sufficient amount of density to visually screen and/or break up the building mass.
6. Care is taken to recognize the visibility of property in this zone and to lessen any adverse effect development of these parcels will have.

52.050 Public Park (WG-PP)

Intent: To allow and encourage recreational development and public access to and along the river while preserving protecting and enhancing the scenic qualities of the river and the riparian environment.

Guidelines:

A. The city shall permit proposals to change or intensify land use within this zone which comply with all of the following conditions:

1. The proposal is for recreational uses or uses directly related to recreation.
 2. The proposed development reflects river-related recreational needs, the character of the river and the unique opportunities presented by the particular site.
 3. The proposed development maximizes open space and landscaping which emphasizes native plant materials.
 4. The proposed development is in harmony with existing and proposed adjoining developments and land uses, and does not significantly detract from the value of an abutting property lying in a different Greenway zone.
 5. The proposed development provides for public access as outlined in the Greenway Plan.
- B. Public access as outlined in the Comprehensive Plan shall be provided in such a way as to disturb the natural environment and wildlife habitat as little as possible.
- C. In order for land to be included in this zone it must first be publicly owned.

52.055 Agriculture and Riparian (WG-AR)

Intent: To allow for use consistent with the primary zone while preserving, protecting and enhancing the resource qualities of the river, adjacent land and the riparian environment.

Guidelines:

- A. With the exception of agricultural uses, all other development proposals will require a conditional use permit. The following guidelines shall be used in the granting of a conditional use permit.
1. All development must also conform to the flood plain zone requirements.
 2. No use will be permitted that has an adverse effect on adjacent agricultural land and its continued use.
 3. No development or use which will be detrimental to the natural environment, wildlife, wildlife habitat, agriculture land use or scenic quality shall be allowed within this zone.
 4. Developments which support the natural environment, wildlife and wildlife habitat or allow for its viewing and interpretation shall be allowed on a conditional use basis.

5. The applicant shall be required to submit a statement assessing the construction and long range impacts of the proposed development on the natural environment, wildlife, wildlife habitat and agricultural land use.

B. Public access as outlined in the Greenway Plan shall be provided in such a way as to disturb the natural environment and wildlife habitat as little as possible.

52.060 Conditions Limiting Uses

In accordance with the provisions of this ordinance governing conditional uses, the Planning Commission may impose conditions or limitations upon the use of land or structures in the Willamette Greenway Development District. Such conditions may include, but shall not be limited to the following:

- A. Location and arrangement of structures.
- B. Imposition of deed restrictions.
- C. Retention of natural vegetation.
- D. Natural resource protection methods.
- E. Landscaping.
- F. Structure height limitations.

52.065 Prohibited Uses

The following uses are hereby declared to be inconsistent with the purpose of the Willamette Greenway Development District and shall not be permitted in this zone:

- A. Subdivision.
- B. Removal of significant protective riparian vegetation with no intent to landscape or provide alternate protective measures.
- C. Access to the river through private property without permission.

52.070 Non-Liability of City

The granting of any request for a conditional use for structures or uses in the flood plain shall not constitute a representation, guarantee, or warranty of any kind by the City of Independence of the practicability or safety of any structure or use proposed, and shall create no liability upon or cause of action against the city or any employee thereof for any damage that may occur.

SUBCHAPTER 53

AGRICULTURE (AG) ZONE

53.005 Purpose

The purpose and intent of the Agriculture Zone is to provide areas for the continued practice of agriculture and permit the establishment of only those new uses which are compatible to agricultural activities.

Further, it is the intent of this zone classification to provide the automatic farm use valuation for farms which qualify under the provisions of Oregon Revised Statute 308. Therefore, the Agriculture Zone is to be applied only in those areas generally well suited for farming, as indicated by the nature and type of soil, size and location of the property, the suitability of the terrain and other similar factors.

Further, the Agriculture Zone is intended to guarantee the preservation and maintenance of the areas so classified for farm use, free from conflicting non-farm uses and influences. The zone is subject to change only in those instances where there is substantial evidence that such land is no longer suitable for agriculture.

It is not the purpose or intent of this ordinance to regulate or limit farm or agricultural use of land.

Except when approval of the Planning Commission has been obtained as provided in Subchapter 53.035, all divisions of land in an agriculture zone are prohibited.

53.010 Definitions

Agriculture: For the purposes of this subchapter, "Agriculture" and "Farm Use" are synonymous.

Farm Use: The current employment of land including that portion of such lands under buildings supporting accepted farming practices for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by feeding, breeding, management and sale of, or the product of livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. It does not include the use of land subject to the provisions of ORS Chapter 321, or to the construction and use of dwellings customarily provided in conjunction with the farm use.

53.015 Permitted Uses

Within any Agriculture Zone, no building, structure or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained, except for the following uses:

- A. Farm uses (see farm use definition).
- B. Accessory buildings, not dwellings or manufactured dwellings, normally required in connection with a use as specified in (a) above.
- C. Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale.
- D. The propagation or harvesting of a forest product.
- E. Placing of signs, markers, aids, etc., by a public agency.
- F. Customary cleaning or maintenance of a stream or drainage.
- G. Maintenance and repair, usual and necessary, for the continuation of an existing use.
- H. Reasonable emergency procedures necessary for the safety or protection of property.

53.020 Conditional Uses

When authorized under the procedure provided for conditional uses in this ordinance, the following uses may be permitted in an Agriculture Zone:

- A. Operations conducted for the exploration, mining and processing of geothermal resources, as defined by Subsection 4 of ORS 522.010, aggregate and other mineral resources or other subsurface resources.
- B. Private parks, playgrounds, hunting and fishing preserves and campgrounds.
- C. Parks, playgrounds or community centers owned and operated by a governmental agency or a non-profit community organization.
- D. Fills, dikes, or levees.
- E. A single family dwelling or a manufactured dwelling subject to the provisions of Sections 51 and 52 and ORS 215.203.

53.025 Standards for Conditional Uses

An application for a conditional use in the Agricultural Zone shall be approved only if the following conditions are found to exist:

- A. The proposed use is consistent with the purpose of the Agriculture Zone as stated in this chapter.
- B. The proposed use shall not interfere with adjacent farm uses.

- C. The proposed use is consistent with the applicable overlay zones.

53.030 Prohibited Uses

It shall be unlawful to erect, alter, maintain or establish in an Agriculture Zone any building, use or occupancy not permitted or allowed in the foregoing provisions, excepting existing nonconforming uses, which may continue as provided in Section 10.055. Subdivisions are not consistent with the purpose and intent of this zone and are hereby declared to be prohibited activities and uses in this zone.

53.035 Land Divisions

The division of land in an Agriculture Zone is discouraged as not consistent with farm use practices, but the Planning Commission may permit the division of land after holding a public hearing. The Commission shall consider:

- A. If a residential use permitted will seriously interfere with the usual and normal farm practices on adjacent agricultural lands (such as hazardous pesticide and herbicide applications, noise, dust, smoke and offensive odors).
- B. If the proposed division of land will materially alter the stability of the overall land use pattern of the area.
- C. If the land is generally suitable for the production of farm crops and livestock, as conducted in that area, considering the terrain, soil or land conditions, drainage, and flooding, vegetation, location, and size of tract.

An affirmative decision may be granted only if either the following conditions are found to exist:

- A. The division is for the purpose of expansion or consolidation of adjoining farming activities.
- B. The division is for the purpose of establishing a labor intensive agricultural activity meeting, the definition of farm use as contained in ORS 215.203.

The Commission may attach appropriate conditions in the granting of an application, including the minimum size of the tracts and future redivisions.

53.040 Parcel Area

The minimum area for a parcel shall be determined by the Planning Commission, as set forth in Section 53.035. This restriction shall also apply to contiguous parcels of land under one ownership, whether or not previously platted which contiguous parcels shall be considered as single unit of ownership.

53.045 Yards

The minimum requirements for front, side and rear yards shall be as follows:

Minimum front yard dept: 20 feet (6.21 meters)

Minimum side yard depth:

- Yard not adjoining street: 5 feet (4.5 meters)
- Yard adjoining street: 10 feet (9.14 meters)

53.050 Height

There are no height restrictions in an Agriculture zone.

53.055 Parking Requirements

Parking space requirements shall conform to the requirements set forth in Chapter 73.

SUBCHAPTER 54

BUFFERING, SCREENING, LANDSCAPE AND ASH CREEK SETBACK REQUIREMENTS

54.005 Applicability.

A. All subject properties developed within the city are required to be buffered, screened and landscaped in accordance with the provisions of this Subchapter. All planting materials, species, sizes and installation details shall be in substantial conformance with the Independence Urban Forestry Management Plan. The requirements of this subchapter are in addition to any yard setback requirements or other requirements contained in the zoning or city code.

B. Development shall mean land use, limited land use, building permit, or development permit applications of any kind or the erection, construction or exterior remodeling of buildings, structures, parking lots and streets and roads in all zones, except for single-family dwellings or duplexes in residential zones.

C. Maintenance. Property owners are required to maintain the buffered, screened or landscaped areas including necessary watering, weeding, pruning, and mowing. Trees and shrubs may be trimmed or removed for health or safety reasons but shall be replaced with suitable landscaping materials.

D. Irrigation. All landscaped areas shall be irrigated by an underground system except for dwelling structures containing less than four units or unless a licensed landscape architect certifies that the landscaping will likely survive without irrigation. Suitable watering facilities or irrigation systems must be included in or near all planted areas.

E. Site Improvements. The property owner is responsible for the maintenance of the site improvements including re-stripping parking stalls and ensuring the preservation of the clear vision area.

F. Submission of landscape plans. Landscape plans, including any required buffering and screening, shall be submitted and reviewed as part of the Site Design Review application process (see Subchapter 80).

G. Alternative Plans. The requirements of this ordinance may be reduced or eliminated when the following alternative means of providing the required landscaping exist:

1. Existing Screening. Where the abutting use has provided buffering in compliance with this section, no further buffering or screening need be provided.

2. In lieu of these standards, the property owner may submit a detailed plan and specifications for landscaping and screening, as part of a Site Design

Review application, including plantings, fences, walls, walks and other features designed to afford the degree of desired buffering. The city shall review the alternative plan based on standards contained in this subchapter.

H. Permit Issuance.

1. Occupancy permits may be issued prior to the complete installation of all required landscaping if security equal to 120% of the cost of plant materials and labor as determined by the approval authority is filed with the city assuring such installation within a time specified by the City, but not exceeding six months after occupancy.

2. Security may consist of a faithful performance bond payable to the city, cash, certified check, time certificate, or deposit, or assignment of savings account and the form shall meet with approval of the City Attorney.

3. If the installation of the landscaping is not completed within the period specified by the City, the security may be used by the city to complete the installation. Upon completion of the installation, any portion of the remaining security deposited with the city shall be returned. The final landscape inspection shall be made prior to any security being returned. Any portions of the plan not installed, not properly installed, or not properly maintained shall cause the inspection to be postponed until the project is completed or cause the security to be used by the city.

54.010 Buffering and Screening Requirements.

A. A buffer consists of a horizontal distance adjacent to the property line, which may only be occupied by screening, utilities and landscaping materials.

B. When development occurs adjacent to a vacant lot of a more intensive use, the buffer and screening shall be provided when the more intensive use is developed. When development occurs adjacent to an existing more intensive use that has not provided a buffer and screening in accordance with this subsection, the proposed less intensive use shall provide the buffer and screening to the conforming use of the adjacent property. Where the adjacent property allows mixed uses, the buffer and screening shall be based on the conforming use that would conflict most with the proposed use. Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:

1. Planting Area: Width not less than fifteen (15) feet, planted with the following materials:

a. at least one row of deciduous or evergreen trees staggered and spaced not more than fifteen (15) feet apart;

b. at least one row of evergreen shrubs which will grow to form a continuous hedge at least five (5) feet in height within one (1) year of planting; and

c. lawn, low-growing evergreen shrubs or evergreen ground cover covering the balance of the area.

2. Berm Plus Planting Area: Width not less than ten (10) feet, developed in accordance with the following standards:

a. Berm form should not slope more than forty (40) percent (1:2.5) on the side away from the area screened from view. The slope for the other side (screened area) may vary.

b. A dense evergreen hedge shall be located so as to most effectively buffer the proposed use.

3. Wall Plus Planting Area: Width must not be less than five (5) feet developed in accordance with the following standards:

a. a masonry wall or fence not less than five (5) feet in height; and

b. lawn, low-growing evergreen shrubs, and evergreen ground cover covering the balance of the area.

4. Other methods which produce an adequate buffer considering the nature of the impacts to be mitigated, may be used, as approved by the Planning Commission.

C. Screening shall be used to eliminate or reduce the visual impacts of the following:

1. service areas and facilities, including garbage and waste disposal containers, recycling bins and loading areas;

2. outdoor storage and outdoor display areas;

3. parking areas for 10 or more vehicles for multi-family developments, or 30 or more vehicles for commercial or industrial uses;

4. at and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners; and

5. any other area or use as required by this Ordinance.

D. Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, building placement or other design techniques.

E. In those cases where a proposed land use is separated from an abutting use by a street of at least arterial status, the buffering and screening requirements along this common boundary may be waived. When a required buffer is adjacent to a street, the required fence structures shall be located so that the landscaped portion of the buffer is oriented toward the right-of-way.

F. All mechanical equipment on roofs shall be screened when abutting a residentially designated property or an arterial street. Screening shall obscure mechanical equipment at elevation. Solar collecting panels are exempt from this requirement.

54.205 Landscaping Requirements.

The following areas shall be landscaped in accordance with the requirements listed below. These requirements may be used in conjunction with the buffering and screening requirements listed in 54.010 above. The requirements in this subsection are not applicable to manufactured dwelling parks, which are regulated by Subchapter 61 of the Independence Zoning Code.

A. Multi-family residential developments or dwelling structures containing three or more units: A minimum of twenty percent (20%) of the gross site, including ground cover, shrubs and trees for foundation planting, entrance plantings, parking island and perimeter plants. Each ground level unit, excluding manufactured homes, shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents.

B. Commercial, Industrial and Mixed Use Developments: A minimum of 15% of the gross site area is required to be landscaped.

Parking lots containing over 10 parking spaces are required to use curbed islands and plantings therein to break up parking areas.

C. A minimum width of six (6) feet is required for landscape strips abutting parking lots.

D. Any addition to or expansion of an existing structure or parking lot which results in additional lot coverage shall be landscaped as follows: Divide the amount of additional lot coverage (building area, not including basement or upper floors, plus required parking and loading zones) by the amount of the existing lot coverage (building area, not including basement or upper floors, plus required parking and loading zones), multiply by the percentage of landscaping required in the zone, multiply by the total lot area of both the original development and the addition; however, the total amount of the landscaping shall not exceed the requirements set forth in this subsection.

$$\frac{\text{ALC (additional lot coverage)}}{\text{ELC (existing lot coverage)}} \times \text{X \% of landscaping X total required lot area}$$

E. Landscaping to be installed on an addition or expansion may be spread over the entire site (original and addition or expansion projects) with the approval of the City.

Fence or Wall	Shrubs	Shade Trees	Width
	Per 100 Lineal Feet		
NONE	0	0	10'
6-8' FENCE	40	0	10'
6-8' FENCE	50	5	20'
6-8' FENCE	50	5	30'
6-8' FENCE	90	9	40'
8' FENCE	90	9	50'



BUFFER MATRIX AND SCREENING REQUIREMENTS

ABUTTING USE

PROPOSED USE	Detached Dwellings	Two or Three Attached Dwellings	Four to Twelve Attached Dwellings	Thirteen or More Attached Dwellings	Arterial Streets	Office Use	Neighborhood/General Commercial Use	Extensive Commercial/Business Park Use	Industrial Use	Primarily Res. Mixed Use	Primarily Com. Mixed Use	Res. Community Service	Non-Res. Community Service	Regional Shopping Center
Detached Dwellings	-	A	A	A	A	A	A	A	A	A	A	A	A	A
Two or Three Att. Dw.	A	-	B	C	B	B	C	D	E	C	C	C	C	F
Four to Twelve Att. Dw.	B	B	-	B	B	B	C	D	E	B	C	B	C	F
Thirteen or More Att. Dw.	C	C	B	-	B	B	C	D	E	A	C	A	C	F
Arterial Streets	B	B	B	B	-	-	-	-	-	B	-	B	-	-
Office Use	B	B	B	B	-	-	-	-	-	B	-	B	-	-
Neighborhood Comm. Use	C	C	C	C	-	-	-	-	-	C	-	C	-	-
General Commercial Use	C	C	C	C	-	-	-	-	-	C	-	C	-	-
Extensive Commercial Use	D	D	D	D	-	-	-	-	-	D	-	D	-	-
Business Park Use	D	D	D	D	-	-	-	-	-	D	-	D	-	-
Light Industrial Use	E	E	E	E	-	-	-	-	-	E	-	E	-	-
Heavy Industrial Use	E	E	E	E	-	-	-	-	-	E	-	E	-	-
Primarily Res. Mixed Use	C	C	B	A	B	B	C	D	E	-	C	A	C	F
Primarily Com. Mixed Use	C	C	C	C	-	-	-	-	-	C	-	C	-	-
Res. Community Service	C	C	B	A	B	B	C	D	E	A	C	-	C	F
Non-Res. Comm. Service	C	C	C	C	-	-	-	-	-	C	-	C	-	-
Regional Shopping Center	F	F	F	F	-	-	-	-	-	F	-	F	-	-

(Buffer Codes correspond to Buffer Combination Graphic on next page)

SUBCHAPTER 55

STORM WATER MANAGEMENT REQUIREMENTS

55.005 Pursuant to the general laws of the State of Oregon and the powers of the City of Independence, the city does hereby declare its intention to require that any development activity within the city or within the urban growth boundary which increases the total impervious surface of the development site or which in any way causes the addition to or change in storm water runoff, erosion, drainage or flooding reduce the adverse effects of said storm water runoff or flooding by implementation of a drainage management plan as defined in this ordinance. The requirements imposed by this ordinance shall be the responsibility of the developer.

55.010 Definitions

As used in this ordinance, except where the context otherwise requires:

- A. "Development" shall mean any property altered in appearance by removal of vegetation, grading or filling of the existing ground surface or construction of a structure or any other impervious surface.
- B. "Drainage management" means the handling of storm water runoff so as to minimize its adverse impacts upon the public health, safety and welfare; upon property, public or private; upon local economy and aesthetics;
- C. "Drainage management plan" means a plan drawn by a registered professional engineer showing ditches, culverts, easements and other proposed improvements with a statement in writing showing how the development will not create erosion, drainage, runoff or flooding problems either in the development, in adjacent or downstream properties. The plan shall also contain a soil erosion and sediment control plan.
- D. "Impervious surface" are those hard-surface areas located upon real property which either prevent or retard saturation of water into the land surface, as existed under natural conditions pre-existent to development, and/or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Common impervious surfaces include, but are not limited to, roof tops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas, streets, roads, and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.
- E. "Improved premises" means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected, or any alteration of the historic alignment and/or direction of the runoff. Such a condition shall be determined by the city.

F. "Open drainage way" means a natural or man-made path which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower evaluation.

G. "Runoff control" is any means approved by the city by which the peak rate of storm water runoff from developed land surfaces is reduced.

H. "Storm water management plan" is a comprehensive plan required for all development applications for projects which will expose more than 60,000 square feet of soil at one time or which will produce more than 10,000 square feet of additional impervious surface.

55.015 Drainage Management Plans Required

All development within the city shall require a development application which shall be accompanied by a drainage management plan, as follows:

A. Drainage Management Plan. All applications for development within the city shall contain a drainage management plan, as defined above, with profiles, cross sections, properly executed drainage easements and accompanying written statements containing hydraulic calculations prepared by a registered professional engineer, licensed to practice in the State of Oregon. Written approval of the surface drainage plan by the City Manager or designee is required before final approval of the development application. Any drainage management plan shall provide for the following minimum requirements:

1. The reduction of peak runoff.
2. The establishment of a maximum discharge rate.
3. The control of the quality of water being discharged, both during and after construction.
4. The construction and maintenance of on-site or off-site facilities necessary to accomplish the above requirements.
5. Dedication to the City of any necessary easements for future maintenance.
6. Ensure that post development finish grading will not increase, direct onto, or otherwise cause any negative impact from surface drainage to abutting properties.

B. Storm Water Management Plans. In addition to the drainage management plan described above, developers for projects which will expose more than 60,000 square feet of soil or which will produce more than 10,000 square feet of additional impervious surface must submit a comprehensive storm water management plan to the Planning Commission for its review and approval.

C. Performance Standards. Storm Water Management Plans shall show a means whereby the total volumes discharged from the developed site shall not exceed the discharge rate for the undeveloped site for a 5, 10 and 25 year storm event. Sediments and other pollutants shall be limited through appropriate management practices to prevent adverse downstream water quality impacts. Specifications for hydraulic calculations techniques and design standards for facilities to achieve this performance standards must be approved by the city.

55.020 Design Standards

A. All storm water systems within the development shall be designed to meet the criteria of the performance standards based on run off curves compiled by the soil conservation services. Flows shall be computed by appropriate professional methods with design computations being submitted for approval.

B. Upstream drainage shall be accommodated by an adequate sized system through the proposed development for existing conditions and future potential development in the upstream drainage area or areas tributary to the proposed development, as determined by the Planning Commission.

C. Existing downstream drainage facilities shall be studied to determine the effect of the proposed development's drainage. The developer shall demonstrate to the satisfaction of the Planning Commission that the storm drainage from the proposed development will not, in any way, overload or damage existing storm drainage systems downstream from the proposed development.

D. Three hundred (300) feet shall be considered as the maximum length for carrying open storm water in a street gutter prior to intake at a catch basin for all zones. No storm water will be permitted to drain across a street or across an intersection.

E. Minimum pipe size for any storm drainage pipe shall be 12 inches. The minimum cover over storm drainage pipe shall be 36 inches.

F. Where open ditches, channels, streams or natural drainage courses are used, either to collect or discharge storm water, adequately sized perpetual easements shall be provided. Minimum width shall be 20 feet. Approval of the Planning Commission shall be required for any open storm drainage system. A minimum bottom flow line slope of two (2) percent is required, unless otherwise approved by the City.

G. Where subsurface soils are of the nature requiring an under-drainage system, underdrains shall be installed so that they are discharged by gravity.

H. House foundation drains may be connected to the storm drainage system upon approval by and under the direction of the City of Independence.

- I. Storm drain system inlet and outlet aprons ~~to shall~~ be rip-rapped with appropriate sized rock material.
- J. Proposed open detention facilities shall be fenced around the perimeter with chain link fence (6-foot high) and gated when required by the Planning Commission.
- K. Storm drainage construction methods, materials, and testing requirements shall meet the latest A.P.W.A. standards and shall be approved by the City prior to installation.

55.030 General Construction Requirements

- A. Trenching. All trenching shall be accomplished in accordance with all appropriate state and federal safety requirements.
- B. Maximum trench width at the pipe crown shall be the outside diameter of the pipe, plus 3 feet.
- C. Pipe shall be bedded in a granular material with a minimum depth of 4 inches below the bottom of the pipe and extended up to one-half the diameter of the pipe.
- D. Drain alignment shall be straight in both horizontal and vertical alignment unless specific approval of a CURVILINEAR drain is obtained in writing from the City.
- E. Catch basins shall be provided at all changes in vertical or horizontal alignment, and at all junctions. On straight runs, catch basins shall be placed at a maximum of 400 foot intervals.
- F. All drain outlets shall be terminated in an end wall of concrete construction, or shall be rip rapped to prevent erosion. Facilities for energy dissipation shall be provided.
- G. Under drains shall be laid with perforation down.
- H. All trenching under proposed/existing roadways or sidewalks shall be back-filled with 3/4" - 0" crushed quarry rock compacted to not less than 95% of the maximum density. Maximum density will be determined by ASTM D 2922. Documented compaction test results submitted prior to City acceptance of the drainage system.

SUBCHAPTER 56

CROSS CONNECTION CONTROL ORDINANCE

56.010 Purpose

The purpose of this ordinance is to eliminate any potential or actual cross connection of water in the city's water system.

56.015 Definitions

- A. "City" means the City of Independence.
- B. "Cross Connection" means any physical arrangement whereby a public water system is connected directly, indirectly, actually or potentially, with any other non-drinkable water system, used water system or auxiliary supply, sewer, drainage, swimming pool, storage reservoir, plumbing fixture, air conditioner, swamp cooler, fire protection system, spray canisters, spa or hot tub, or any other liquid of unknown or unsafe quality which may be capable of contaminating the city's public water system, as a result of backflow, bypass arrangements, jumper connections or any other temporary assembly that may allow backflow to occur.
- C. "Backflow Prevention Device" means any device of a type and model approved by the Oregon Department of Human Resources, Health Division, who shall maintain a list of backflow prevention device assemblies approved for use in Oregon.

56.020 Applicability

This chapter is applicable to all properties in the City of Independence and the Urban Growth Boundary and any properties outside the urban growth boundary which use, affect, or are connected to the City's water supply. The requirements of this ordinance shall apply to all of the following conditions:

- A. There is an auxiliary water supply which is, or can be, connected to the potable water piping.
- B. There is piping for conveying liquids other than potable water, and where that piping is under pressure and is installed in proximity to potable water piping.
- C. There is intricate plumbing which makes it impractical to ascertain whether or not cross connections exist.
- D. There is back-siphonage potential.
- E. Cross connections or potential cross connections exist.
- F. Where any auxiliary water supply exists such as, but not limited to, private wells, springs, creeks which are or could be used for irrigation.

56.025 Termination of Water Service Authorized

Where the city has reasonable cause to believe that an existing or potential cross connection is located on a user's premises, the city shall deny or discontinue service to the premises until an appropriate backflow prevention device assembly is installed or until the cause of the hazard is eliminated.

56.030 Access to Premises

Where the city has reasonable cause to believe that an existing or potential cross connection is located on a user's premises, city official shall have the right to enter all property and structures in order to ascertain whether a cross connection exists. All city official who need access for inspection for cross connection control shall be given access after giving 14-hour notification to the water user, unless the owner or tenant gives consent to inspect at an earlier time. If there is reason to believe that a hazardous cross connection exists which endangers the public safety, no prior notification or consent need be given.

56.035 Water System User Notice Requirements

Whenever a water user or the owner of the premises obtaining water from the city's public water system treats the water in any way or adds any chemical or substance to the water, they shall notify the city in writing prior to treating said water.

56.040 Inspections Required

Inspections shall be required under the following conditions:

- A. The water user or owner of the premises where cross connection devices have been installed shall have the device tested by a certified tester at least once per year. Devices installed at facilities which pose an extreme health risk and devices which repeatedly fail shall be tested on a more frequent basis as determined by the city manager or his or her designate.
- B. Backflow prevention devices found not to be functioning properly shall be promptly repaired by the water user or owner of the device or the city may deny or discontinue service as provided in Subsection 56.025 of this ordinance. After a backflow device is installed or moved, the device shall be tested before use. Reports on the tests shall be prepared by the certified tester and copies of the reports shall be provided to the water user or the owner of the premises and to the city. Tests performed by certified testers shall be in conformance with procedures established by the Foundation for Cross Connection Control and Hydraulic Research, Manual of Cross Connection Control, 8th Edition, June 1988, University of Southern California.

56.045 Installation Requirements

- A. All backflow prevention device assemblies shall be installed in accordance with Sections (1) through (4) of Oregon Administrative Rule 333-61-071.

B. All device assemblies installed after the effective date of this ordinance shall meet the specifications of construction, evaluation and approval of backflow prevention assemblies as specified by the Oregon Department of Human Resources, Health Division.

C. Backflow prevention device assemblies installed before the effective date of this ordinance which were approved at the time they were installed but are not on the current list of approved device assemblies maintained by the Health Division, shall be permitted to remain in service provided they are properly maintained, are commensurate with the degree of hazard, are tested at least annually, and perform satisfactorily. When devices of this type are moved, or require more than minimum maintenance or are on services that are modified, changed size or remodeled, they shall be replaced by device assemblies which are on the Health Division list of approved device assemblies.

56.050 Types of Backflow Prevention Devices Required

The type of backflow prevention required shall be at least commensurate with the degree of hazard which exists, as follows:

A. An approved air gap of at least twice the inside diameter, but not less than one inch, of the incoming supply line measured vertically above the top rim of the vessel, or an approved reduced pressure backflow device (RPBD) device assembly shall be installed where the substance which could backflow is hazardous to health, such as, but not limited to; sewage treatment plants, sewage pumping stations, chemical manufacturing plants, plating plants, hospitals, mortuaries, car washes, medical clinics.

B. An approved double check valve assembly (DCVA) shall be installed where the substance which could backflow is objectionable but does not pose an unreasonable risk to health. An approved double check valve assembly shall be the minimum protection for fire sprinkler systems using piping material that is not approved for potable water use and/or which does not provide for periodic flow-through during each 24 hour period.

C. An approved pressure vacuum breaker shall be installed where the substance which could backflow is objectionable but does not pose an unreasonable risk to health and where there is no possibility of back pressure in the downstream piping. A shutoff valve may be installed on the line downstream of a pressure vacuum breaker but shall not be installed downstream of an atmospheric vacuum breaker.

56.055 Responsibility of Costs

All testing, equipment, installation, maintenance and repair costs shall be the responsibility of the property owner.

56.060 Permits Required

A permit shall be obtained from the city manager or his or her designate prior to installation of any devices required by this ordinance. This ordinance is in addition to the requirements of the Uniform Plumbing Code.

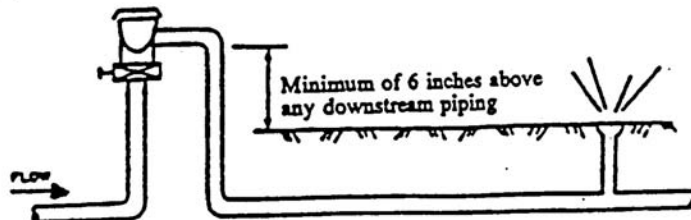
56.065 Owner Responsibility

The owner of property in the city shall be responsible for all requirements imposed by this ordinance. Residential properties occupied by persons other than the owner may install approved backflow prevention assemblies at the meter, if authorized by the owner.

FINAL RULE
1/7/94

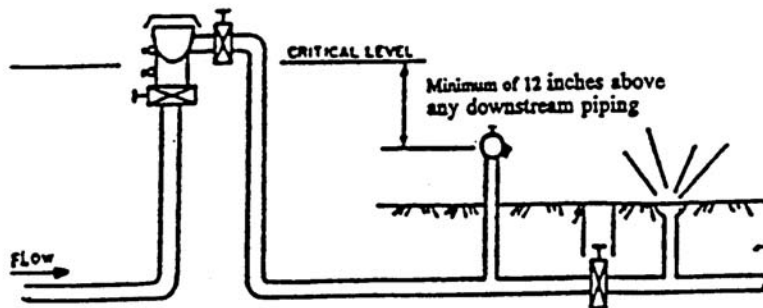
333-61-071 BACKFLOW DEVICE INSTALLATION STANDARDS

(1) TYPICAL INSTALLATION OF AN AVB



- NOTE:
1. Absolutely no means of shut-off on the downstream or discharge side of the vacuum breaker.
 2. For intermittent use only. Must not be pressurized for more than 12 hours in any 24 hour period.
 3. Shall not be subject to any backpressure.
 4. Shall not be installed in dusty or corrosive atmospheres.
 5. Shall not be installed where subject to flooding.
 6. Shall be installed a minimum of six inches above the highest downstream piping and/or outlets.

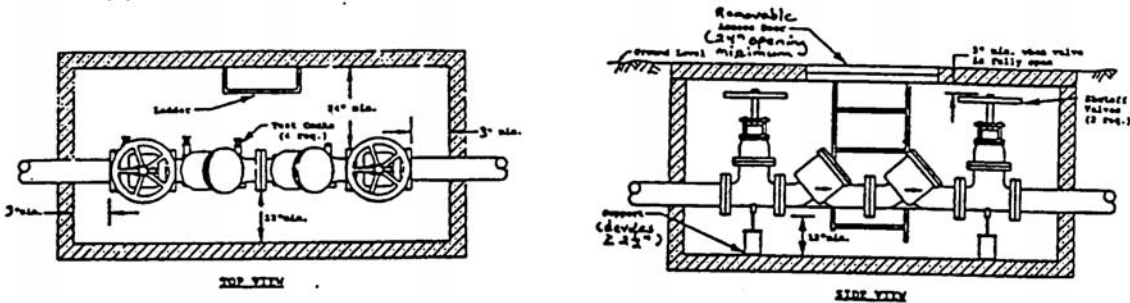
(2) TYPICAL INSTALLATION OF A PVB



- NOTE:
1. Downstream side of vacuum breaker may be maintained under pressure by a valve. But, there may be absolutely no means of

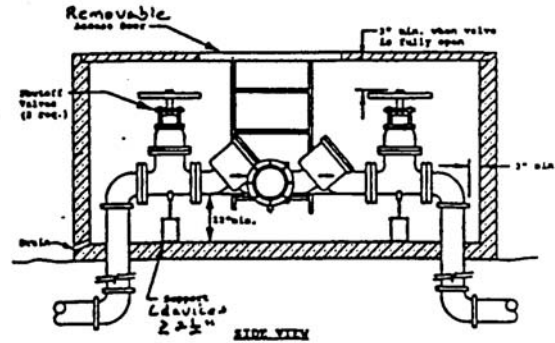
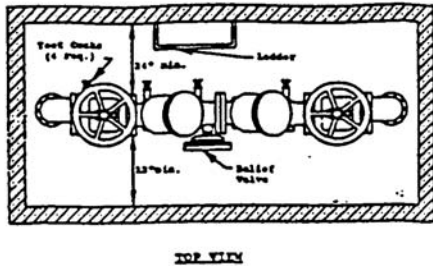
2. imposing backpressure by pump or other means.
2. PVBs are designed to protect against back siphonage only, not backpressure.
3. It shall be installed where occasional water discharge from the device caused by pressure fluctuations will not be objectionable.
4. Adequate spacing shall be available for maintenance and testing.
5. Shall not be subject to flooding.
6. Shall be installed a minimum of twelve inches above the highest downstream piping and/or outlets.

(3) MINIMUM CLEARANCE FOR DCVA INSTALLATION



- NOTE:
1. Bottom and side clearances apply when devices are installed inside building.
 2. DCVAs may be installed vertically as well as horizontally provided that the device assembly:
 - a. Is internally spring loaded -- not weighted checks.
 - b. Is 4 inches or smaller.
 - c. Is recommended by the manufacturer for vertical installation.
 - d. Has the normal flow upward.
 3. DCVAs may be installed below grade in a vault provided plugs are installed in the test cocks, but the device shall not be subject to continuous immersion.
 4. Maximum height of installation shall not exceed 5 feet for device assemblies unless there is a permanently installed platform meeting Occupational Safety and Health (OSHA) standards to facilitate servicing the device.
 5. Minimum clearances for device assemblies 2 inches or smaller may be reduced provided that they are accessible for testing and repairing and approved by the water purveyor.
 6. Adequate drainage must be provided except that the drain shall not be connected to a sanitary or storm water drain. Check with local utilities for requirements.

(4) MINIMUM CLEARANCE FOR RPBD INSTALLATION



NOTE:

1. Bottom and side clearances apply when devices are installed inside building. Access doors may be provided on side of above-ground vault.
2. RPBDs shall always be installed horizontally, never vertically.
3. RPBDs shall always be installed above the 100 year (1%) flood level unless approved by the local authority.
4. Relief valves shall never be extended or plugged.
5. Protection from freezing should be provided.
6. A provision for an air gapped drain shall be provided.
7. RPBDs shall not be installed in an enclosed vault or box unless a bore-sighted drain to daylight is provided.
8. Minimum clearances for device assemblies 2 inches or smaller may be reduced provided that they are accessible for testing and repairing and approved by the water purveyor.

SUBCHAPTER 57

SIDEWALK CONSTRUCTION

57.110 Sidewalk Specifications

- A. All sidewalks hereafter constructed within the City of Independence shall be constructed on concrete cement compounded of portland cement, clean sand, clean gravel and water in sufficient quantities to achieve a 28-day compressive strength of at least 2,500 pounds per square inch when tested in accordance with applicable standards of the American Society for Testing Materials.
- B. All sidewalks shall be three and five-eighths inches minimum thickness and five and three-eighths minimum thickness across driveways.
- C. Sidewalks shall have a fall of .025 inches per foot from the property line toward the curb, and shall be so laid that the street side of the walk shall be at an elevation equal to that of the curb of the street, unless the city manager shall otherwise authorize.
- D. Sidewalks shall be divided into square blocks of no greater dimension than seven feet, by joints running across the walk at right angles to their length. Each joint shall be plainly marked with a deep cutter two inches in width. The edges of all blocks shall be smoothly marked with a three-inch edger and be free from broom marks. All walks and driveways shall receive a broom finish.
- E. Driveway portions of sidewalks shall be scribed in a like fashion, and shall be poured independent of walks and curbs, and shall be separated from such walks and curbs by a cold joint or one-half inch expansion joint.
- F. Sidewalks may be surfaced with brick, quarry-tile or other similar material upon satisfaction of the following conditions:
1. The City Building Official files with the City Manager a written declaration of his/her opinion that the proposed surface will not result in a significant increase in cost to the city of maintenance.
 2. The City Building Official files with the City Manager a written declaration of his/her opinion that the proposed surface will not result in a significant increase in hazard to the public.
 3. The owner of the property abutting the sidewalk files with the City and instrument, recordable in the deed records of Polk County and running with the land, covenanting to keep said sidewalk in good repair at said owner's own expense, and promising to make all needed repairs on demand from the City Manager. (Subsection F added by Ordinance 1074, June 30, 1981) (Ordinance 927, Sec. 1; amended by Ordinance 1074, June 30, 1981.)

57.120 Location

All sidewalks shall be laid adjacent to the street curb, except:

- A. Where an existing portion of sidewalk already exists within the block on or near the property line, all sidewalks upon that side of the street and within the block where the existing property line sidewalk exists shall be constructed adjacent to the property line.
- B. Where the City Council, by resolution, shall provide otherwise. (ordinance 927, Sec. 2.)

57.130 Width of Sidewalks

All sidewalks hereafter constructed or repaired shall be of the following minimum width, exclusive of any curb:

- A. If within a ~~C-2~~ commercial zone as defined by the zoning ordinance of this city, or adjacent any property owned, used or to be used for school or public education purposes - 8 feet.
- B. Elsewhere - 5 feet, except curb line walks shall be 5 feet, inclusive of curb surface. (Ordinance 927, Sec. 3.)

57.140 Sidewalk Beds

- A. Where the earth is in an undisturbed condition, no bed other than the earth needs to be used.
- B. Where the earth has been disturbed, either through leveling or clearing, then a sidewalk bed of sand or small gravel not less than three inches shall be placed before the sidewalk cement is poured. (Ordinance 927, Sec. 4.)

57.141 Repair of Sidewalks - Definitions

As used in Sections 57.141 through 57.148, the masculine includes the feminine and neuter, and the singular includes the plural. The following words shall mean:

- A. Owner: The person in whose name real property is assessed for tax purposes according to the latest assessment roll in the office of the county assessor for Polk County, Oregon.
- B. Person: Every natural person, firm, partnership, association or corporation. (Ordinance 1098, Sec. 1, September 14, 1982.)

57.142 Duty to Repair and Maintain Sidewalks - Liability for Injuries or Other Damages Resulting from Failure to Repair

The person owning the real property adjacent to or abutting on a public sidewalk, shall, at his sole cost and expense, keep said sidewalks in good repair and free of hazards to persons lawfully on or adjacent to such sidewalk. The person owning the real property adjacent to or abutting on a public sidewalk shall be liable for any injuries or other damages resulting from a defective sidewalk which he or she is obligated to repair under this section, and the person shall, furthermore, hold harmless and indemnify the City of Independence for any costs the city may incur as a result of the defective sidewalk. (Ordinance 1098, Sec. 2, September 14, 1982.)

57.143 Duty to Report Defective Sidewalks

Whenever a public sidewalk is found to be defective, out of repair, or hazardous by any officer of the City of Independence, or by any other person, a report thereof shall be made to the City Manager or designee. The City Manager or designee shall thereafter report such defective, out of repair, or hazardous sidewalk to the City Council. (Ordinance 1098, Sec. 3, September 14, 1982.)

57.144 Declaration by Council of Defective Walks as Nuisance

After receiving the report of the City Manager or designee referred to in Section 57.143, the City Council, by resolution, may declare the defective, out of repair, or hazardous sidewalk a nuisance, and direct that the defect or hazardous condition be eliminated or that said sidewalk be placed in a state of good repair. (Ordinance 1098, Sec. 4, September 14, 1982.)

57.145 Notice to Owner

Within five (5) days after the passage of the resolution referred to in Section 57.143, the City Manager or designee shall give notice to the owner of the real property adjacent to or abutting on said sidewalk of the defect therein, the state of disrepair thereof, or of the hazard resulting therefrom, and of the determination that such condition constitutes a nuisance, by sending to such owner, by certified mail, at his address as shown on the last tax assessment roll in the office of the County Assessor of Polk County, Oregon, a copy of such resolution and copy of this ordinance. (Ordinance 1098, Sec. 5, September 14, 1982.)

57.146 Repairs to City Specifications

All repairs undertaken pursuant to this chapter shall be according to city specifications as set forth in the provisions of this chapter, a copy of which shall at all times be available for public inspection in the office of the City Recorder. (Ordinance 1098, Sec. 6, September 14, 1982.)

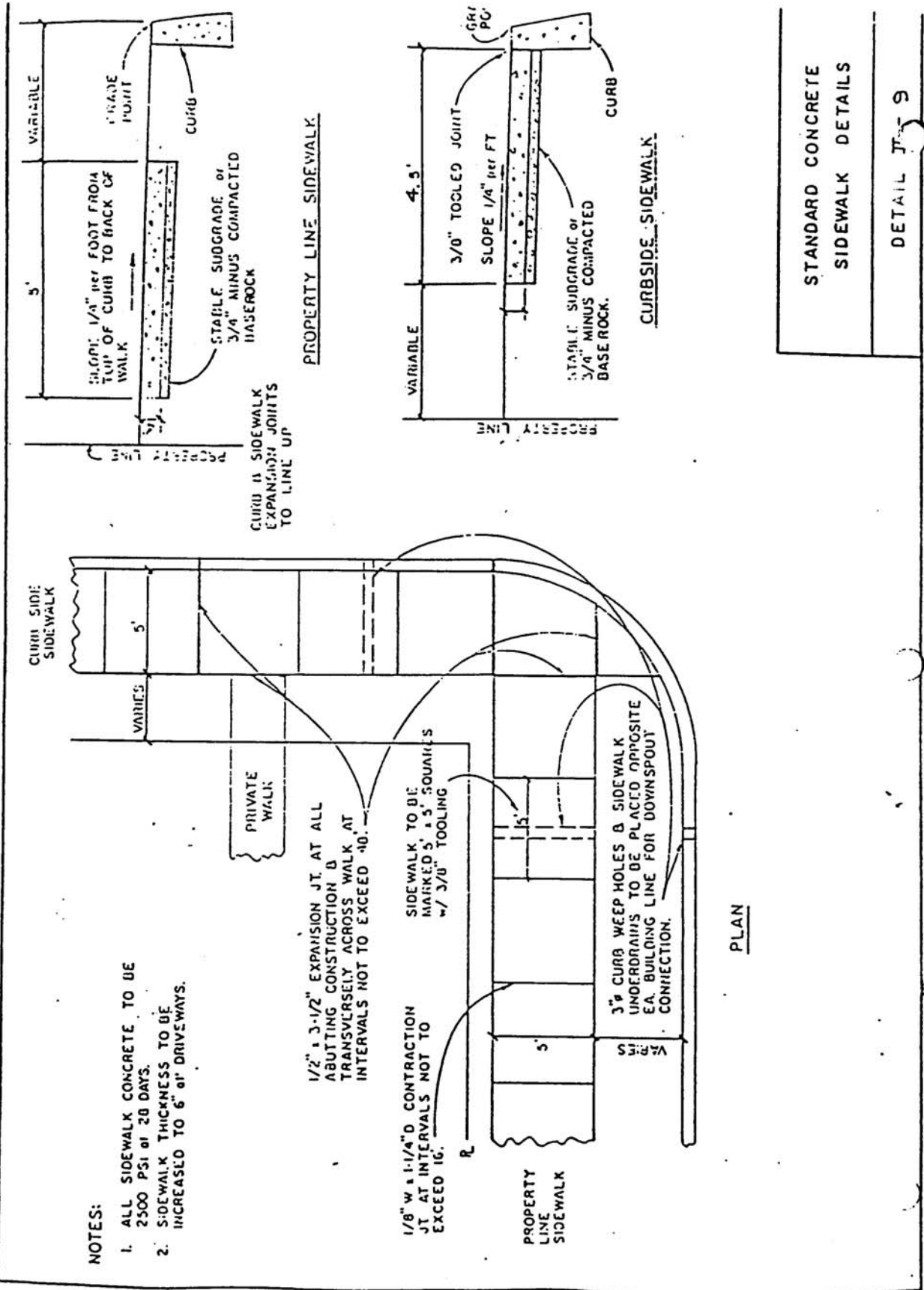
57.147 Failure of Owner to Repair

If the owner does not correct the defect, or eliminate the hazard in, or make repairs to said sidewalk as required by said resolution within the time specified therein, the City Manager or

designee shall cause such defect or hazard to be eliminated or such repair to be made by the city and assess the cost thereof against the property abutting thereon and adjacent thereto. (Ordinance 1098, Sec. 7, September 14, 1982.)

57.148 Assessment of Costs of Repair

The assessment of the costs of eliminating the defect or hazard or making the repair to said sidewalk shall be declared by ordinance, and it shall be entered into the docket of city liens and shall thereupon become a lien against said property. The collection and enforcement of said lien shall be accomplished in the same manner as in the case of the collection and enforcement of the street liens, but irregularities or informalities in the procedure shall be disregarded. (Ordinance 1098, Sec. 8, September 14, 1982.)



NOTES:

1. ALL SIDEWALK CONCRETE TO BE 2500 PSI @ 28 DAYS.
2. SIDEWALK THICKNESS TO BE INCREASED TO 6" @ DRIVEWAYS.

1/2" ± 3-1/2" EXPANSION JT. AT ALL ABUTTING CONSTRUCTION & TRANSVERSELY ACROSS WALK AT INTERVALS NOT TO EXCEED 40'.

1/8" W ± 1-1/4" D CONTRACTION JT AT INTERVALS NOT TO EXCEED 16'.

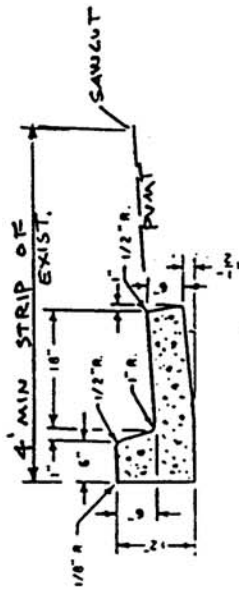
SIDEWALK TO BE MARKED 5' ± 5" SQUARES w/ 3/8" TOOLING

3# CURB WEEP HOLES & SIDEWALK UNDERDRAINS TO BE PLACED OPPOSITE EA. BUILDING LINE FOR DOWNSPOUT CONNECTION.

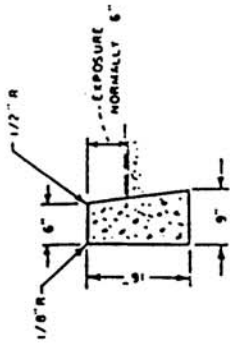
PLAN

STANDARD CONCRETE
SIDEWALK DETAILS

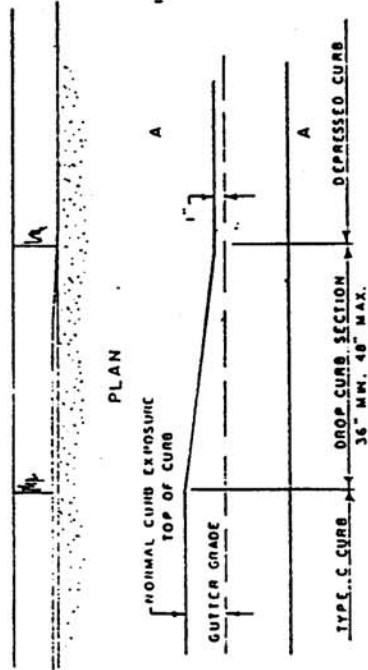
DETAIL JT-9



TYPE-A CURB AND GUTTER



TYPE-C CURB



SECTION A-A

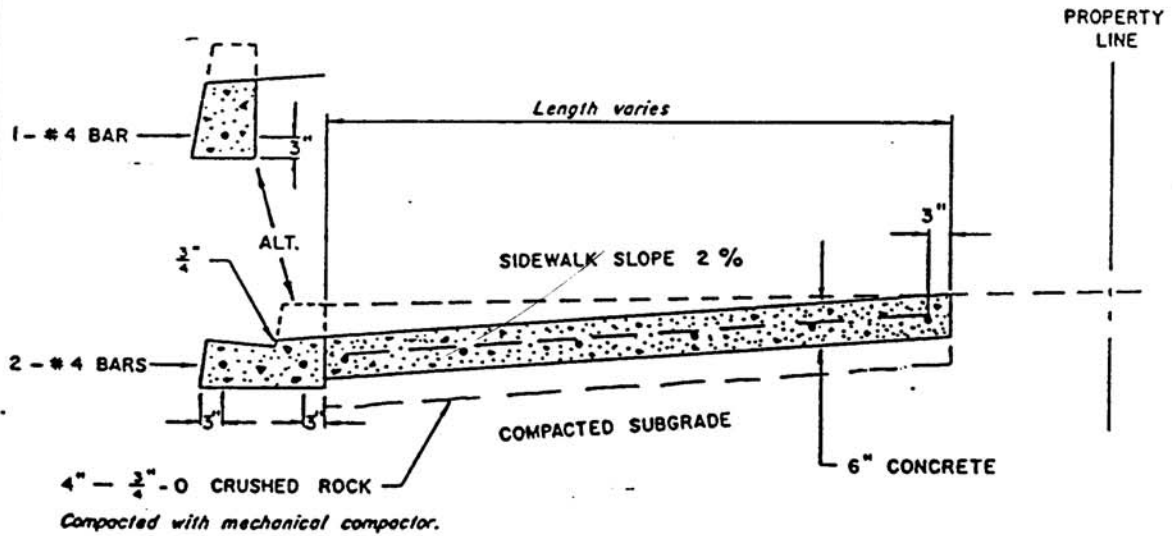
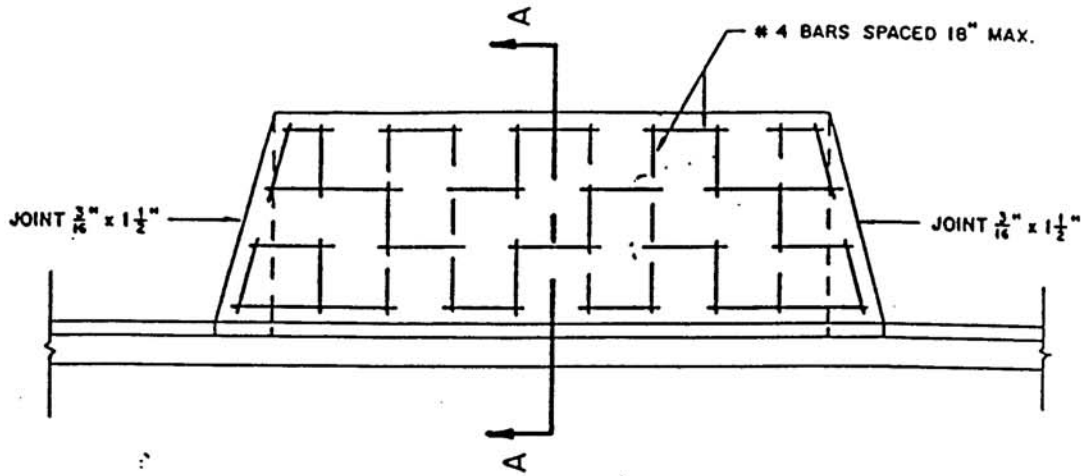
TYPICAL DRIVEWAY TRANSITION

NOTES

1. CURBS AND GUTTERS SHOWN MAY BE USED WITH EITHER A.C. OR P.C.C. PAVEMENTS.
2. TRANSITIONS FROM ONE TYPE CURB TO ANOTHER WILL BE DETAILED ON PROJECT PLANS AS NECESSARY.
3. EXPANSION & CONTRACTION JOINTS AS SPECIFIED.

STANDARD P.C.C. CURB
AND GUTTER SECTIONS

DETAIL II - 8

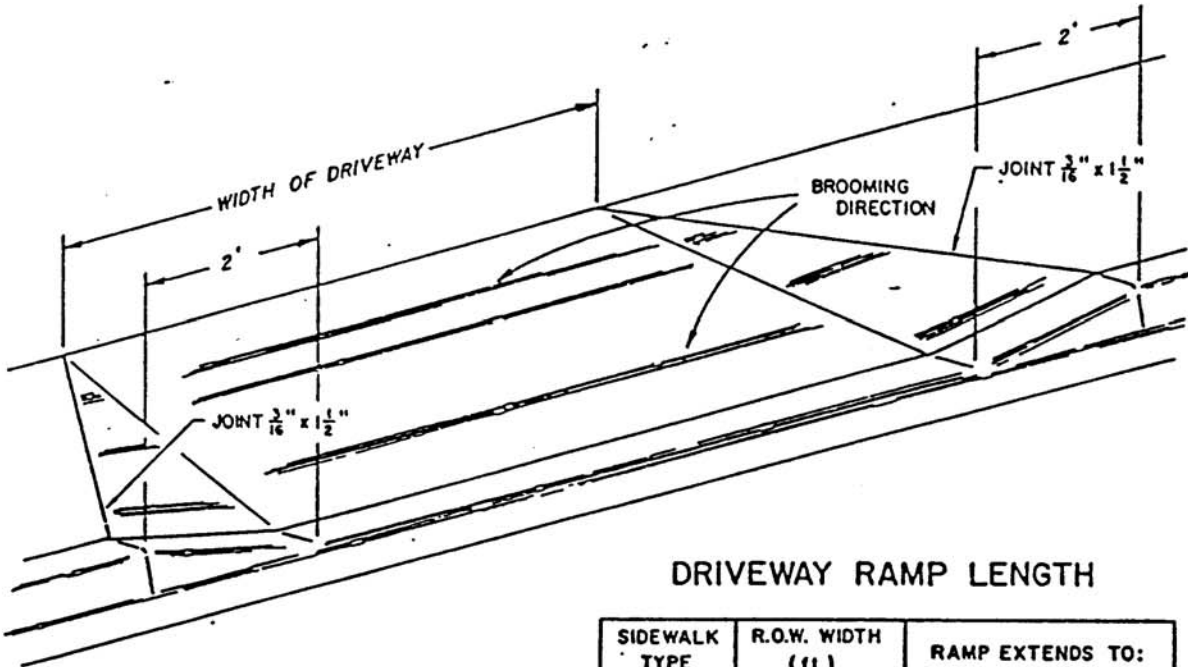
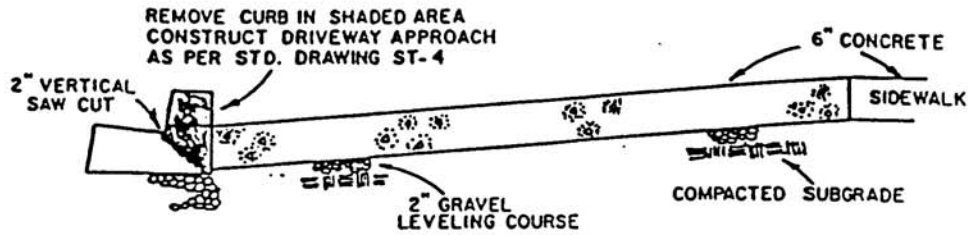


SECTION A-A

NOTES

1. See Std. Drawing ST-13 for additional details.
2. Re-bar may be deleted by City Engineer for light-duty commercial driveway.
3. Sidewalk through Commercial Driveway shall be constructed to this standard.

COMMERCIAL DRIVEWAY



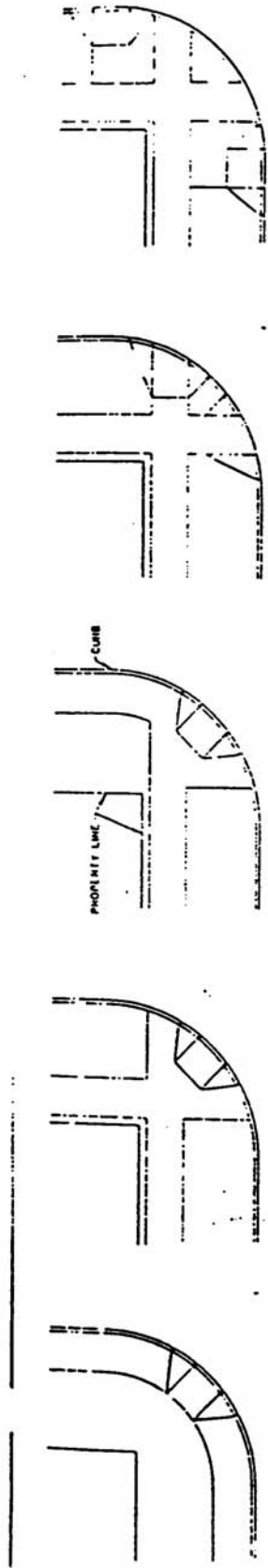
DRIVEWAY RAMP LENGTH

SIDEWALK TYPE	R.O.W. WIDTH (ft.)	RAMP EXTENDS TO:
A	50	Back of Sidewalk
A	60	Front of Sidewalk
B	50	Back of Sidewalk
B	60	Back of Sidewalk

NOTES

1. Concrete shall have strength of 3000 P.S.I. at 28 days.
2. Limits of driveway approach shall be saw-cut.
3. Finish with broom. Edge all joints.
4. Curb and approach shall be poured monolithic.
5. If width is greater than 15 ft, install $\frac{3}{16}$ " x $1\frac{1}{2}$ " contraction joint down the center of the driveway.
6. Expansion joints shall not be used.
7. Work aggregate down into mix prior to finishing concrete.
8. Apply curing compound (petroleum base) to fresh concrete to retain moisture.

DRIVEWAY APRON and CURB CUT



CENTER RAMP
(CURB LINE AND PROPERTY LINE ALIGNED)

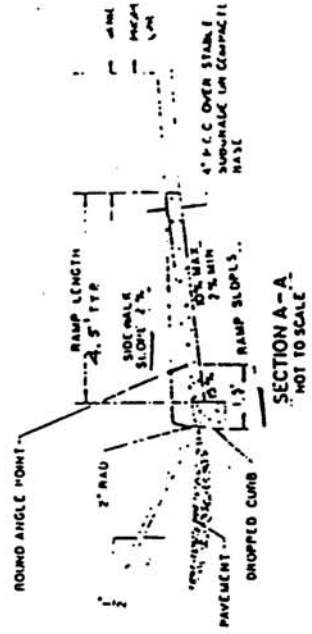
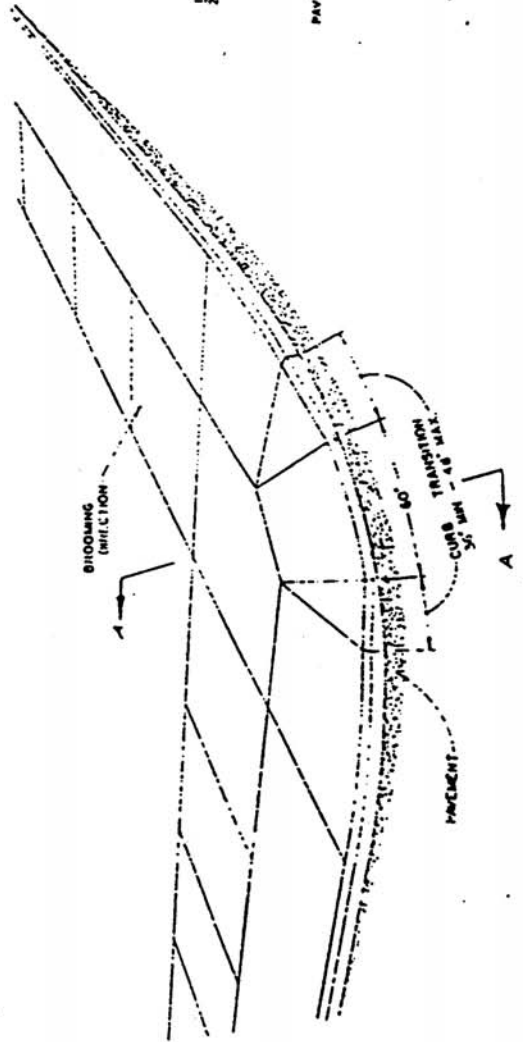
CENTER RAMP
(PROPERTY LINE OFFSET)

CENTER RAMP
(CURB LINE AND PROPERTY LINE OFFSET)

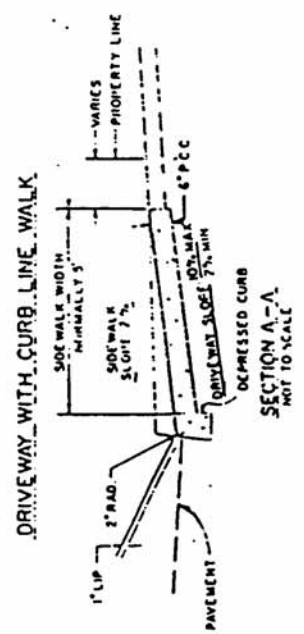
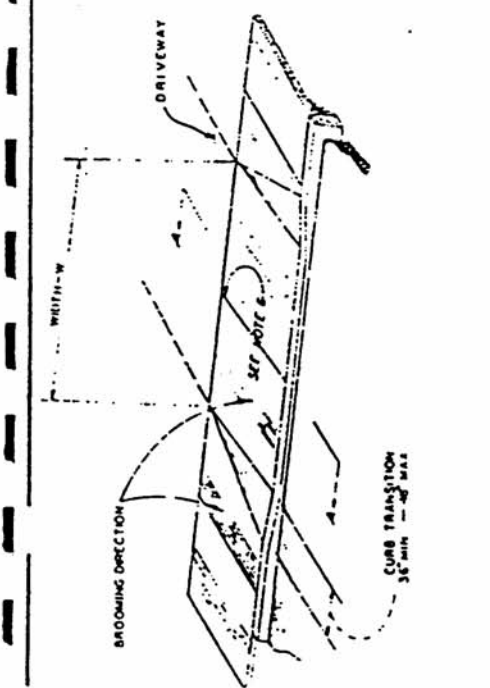
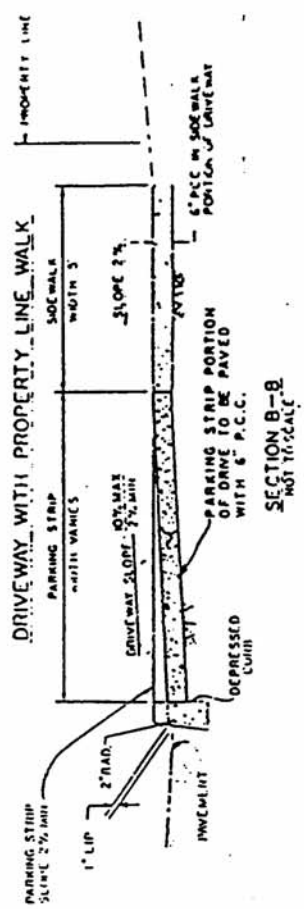
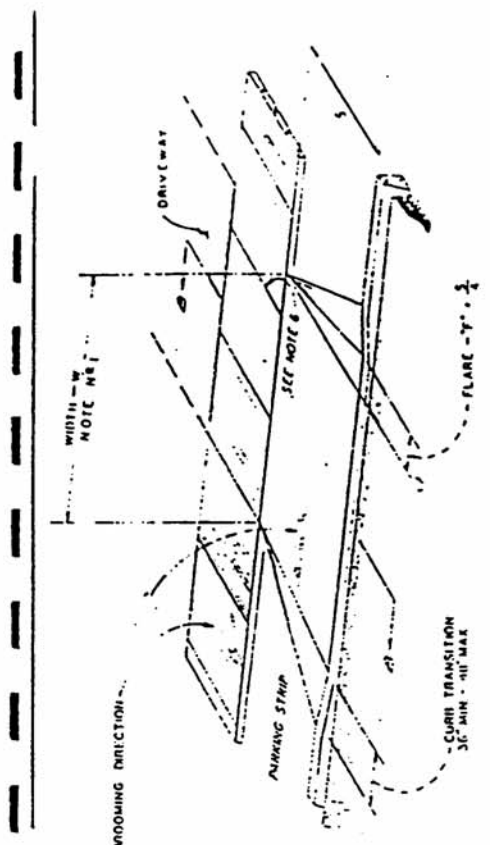
END RAMP
(PROPERTY LINE OFFSET)

END RAMP
(PROPERTY LINE OFFSET)

TYPICAL RAMP LOCATION
NOT TO SCALE



**STANDARD BICYCLE
AND
WHEELCHAIR RAMPS**
DETAIL II-10



NOTES:

1. DRIVEWAY WIDTH-W WILL NORMALLY BE SHOWN ON PROJECT PLANS. WHEN NOT SHOWN, WIDTH SHALL BE AS DIRECTED BY THE ENGINEER.
2. SIDEWALKS, INCLUDING THAT PORTION CROSSING THE DRIVEWAY SHALL BE SCORED TRANSVERSELY AT 5' INTERVALS.
3. PREMOLOD EXPANSION JOINT 1/2" x 4" SHALL BE PROVIDED BETWEEN THE SIDEWALK AND P.C.C. DRIVEWAYS ALONG EACH SIDE OF THE SIDEWALK JOINT MATERIAL SHALL BE PUSHED DOWN OR CUT OFF AT LEAST 1/2" BELOW THE FINISHED CONCRETE SURFACE.
4. SIDEWALK SCORING AND EDGING CONTINUES ACROSS DRIVEWAY AS SHOWN.
5. MAXIMUM DRIVEWAY GRADES TO BE 15% UNLESS OTHERWISE APPROVED BY ENGINEER.

STANDARD DRIVEWAY DETAILS

SUBCHAPTER 58

SIGN ORDINANCE

58.005 Purpose

The City Council of the City of Independence, Oregon, finds and declares that, in order to protect the health, safety, property and welfare of the public and to improve the neat, clean, orderly and attractive appearance of the community it is necessary to regulate the construction, erection, maintenance, electrification, illumination, type, size, number and location of signs.

58.010 Scope

No person shall erect, construct, enlarge, alter, move, improve, convert, equip, use, or maintain any sign, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Sign Ordinance. No person in control of any premises within the City of Independence, Oregon shall permit thereon any sign which violates the provisions of the Sign Ordinance.

58.015 Definitions

For the purpose of this subchapter, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not directory and the word "building" includes "structures" except "sign structures". Any definitions included herein take precedence over the Uniform Sign Code definitions.

Area

Area means the area contained within lines drawn between or around the outermost points of a sign, including cutouts, but does not include essential sign structure, foundations or supports. The area of a sign having two display surfaces facing in opposite traffic directions shall be computed by measuring the largest face. For signs having two or more display surfaces, the area is the maximum area of the surfaces that can be seen from any one point.

Awning

"Awning" means a temporary shelter supported entirely from the exterior wall of a building.

Banner Signs

"Banner signs", as used in this ordinance, shall mean and include every type of decoration or banners displayed over or upon the city streets of the City of Independence on a temporary or seasonal basis, whether attached to utility poles or any other structure.

Billboard

“Billboard” means an advertising sign with sign height over ten feet from the ground surface, on which same is located, to the top of such billboard, and sign area greater than seventy-two (72) square feet, on which the copy is designed to be periodically changed and which is not located on the premises to which such advertising copy pertains.

Bulletin Board

“Bulletin Board” is a public service display for temporary messages.

Canopy

“Canopy” is a structure, other than an awning, made of cloth or metal with frames attached to a building and carried by a frame supported by the ground or sidewalk but shall not mean a completely enclosed structure.

Changing Image Sign

“Changing Image Sign” is any sign which, through the use of moving structural elements, flashing or sequential lights, lighting elements, or other automated method, results in movement, the appearance of movement or change of sign image or text.

Cutout

“Cutout” means every type of display in the form of letters, figures, character, representations or others in cutout or irregular form attached to or superimposed upon an advertising sign.

Directional and Safety Sign

“Directional and Safety Sign” means any sign intended solely for directing and establishing the safe and orderly passage of pedestrians and/or vehicles.

Display Surface

“Display Surface” means the area made available by the sign structure for the purpose of displaying a message.

Electronic Message Center

“Electronic Message Center” is an electronically controlled sign with all its controls. The sign fact consists of recessed lamp bulbs with display copy.

Erect

“Erect” means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of wall signs.

Essential Sign Structure

“Essential Sign Structure” is a reasonably minimal physical structure whose sole purpose is to adequately support the sign and which does not contain any message, light, or configuration which is intended to inform or attract the attention of the public. Sign structures which do not comply with this definition are considered as part of the sign for the purpose of computing sign area.

Freestanding Sign

“Freestanding Sign” means a sign supported by one or more columns, uprights or braces in or on the ground, not attached to or forming part of a building.

Grade

“Grade” means the elevation or level of the street measured at the center line of the street that the sign faces.

Ground Sign

“Ground Sign” means any sign supported by one or more uprights or braces placed upon the ground and not attached to any building, limited to 5 feet in height.

Height

“Height” means the distance between grade and top of sign structure.

Illuminated Sign

“Illuminated Sign” means a sign illuminated by an interior or exterior light source, which exterior light source is primarily designed to illuminate such sign.

Incombustible Material

“Incombustible Material” means any material which will not ignite at or below a temperature of one thousand two hundred degrees Fahrenheit and will not continue to burn or glow at that temperature. Test for an incombustible material shall be conducted as specified in the Uniform Building Code.

Integrated Shopping Center

“Integrated Shopping Center” means a premises planned and developed as a unit, which has an undivided or non-segregated parking area, that is advertised as a center and which has multiple occupancy.

Marquee

"Marquee" shall include any hood of permanent construction projecting from the wall of a building above an entrance and extending over a thoroughfare.

Nonstructural Trim

"Nonstructural Trim" means a molding, batten, cap, nailing strip, lattice, letter walkway attached to a sign structure.

Obscene Sign

"Obscene Sign" is a sign which contains words or pictures in which the dominant theme, taken as a whole, appeals to the prurient interest in sex or is patently offensive because it affronts the contemporary community standard relating to the description or representation of sexual material which is without redeeming social value.

Off Premise

"Off Premise" means any sign, including but not limited to, a painted sign, temporary sign, permanent sign or outdoor advertising sign or billboard, which sign advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities or not located on the premises on which the sign is located.

Pole Sign

"Pole Sign" includes any sign supported by one or more uprights or braces placed upon the ground and not attached to or forming part of a building.

Projecting Sign

"Projecting Sign" means a sign other than a wall sign which projects beyond the building face to which it is attached.

"Projection"

"Projection" means the distance by which a sign extends over public property or beyond the building line.

Reader Board

"Reader Board" means any sign not permanently attached to the ground or building and capable of being moved from place to place, including signs attached to vehicles and trailers.

Roof Sign

“Roof Sign” shall mean a sign erected upon the roof.

Seasonal Sign

“Seasonal Sign” is a temporary sign relating to the celebration or observance of a holiday or special event placed at or around the time of the holiday or special event and removed within a reasonable time thereafter.

Sign

“Sign” means any written message, light (other than a light used primarily to illuminate a building or premises), emblem, time-temperature display, street clock, figure or mannequin, painting, drawing, device, structure, fixture, portable merchandise display, placard, poster or any other thing that is designed, used or intended for advertising purposes or to inform or to attract the attention of the public and includes the sign structure, display surfaces and all other component parts of the sign.

Temporary Sign

“Temporary Sign” means any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, plywood, wood, wall board, plastic, sheet metal or other similar light materials with or without frames, which is not permanently erected or permanently affixed to any sign structure, sign tower, or building and which is not an electric sign or an internally illuminated sign.

Time and Temperature Sign

“Time and Temperature Sign” means an electronically controlled time and temperature display.

Uniform Sign Code

“Uniform Sign Code” means the Uniform Sign Code as adopted by the City of Independence, Oregon.

Wall Façade for Signs

“Wall Façade for Signs” means a sign structure designed for the placement of principal or secondary signs and erected upon the top of a wall or on a wall or parapet of a building in the same general plane as the wall.

Wall Sign

“Wall Sign” means a sign which is painted on or attached to or erected against the wall, window, or parapet of a building or structure or against the faces or ends of a marquee or canopy or on a wall façade for signs with the exposed face of the sign in a

plane parallel to the plane of said wall or face and projecting not more than 12 inches therefrom. Wall Sign also means and includes principal or secondary sign erected in supporting or ornamental columns attached to and located under an overhanging roof, which sign is erected in a plane generally parallel to the nearest face of the building.

Window Sign

“Window Sign” means a sign that is applied to, attached to, or located within the interior of a window.

58.020 Permits Required, Information Required in Application.

It shall be unlawful for any person to erect, alter or relocate within the City any sign without first obtaining any required sign permit from the City Manager or designee and paying any fee required by Section 58.035 hereof or to erect a sign not specifically authorized by this ordinance. Applications for sign permits shall be made upon forms provided by the director. The director may require the filing of sufficient information to determine compliance with the sign ordinance and the zoning ordinance.

58.025 Permit Issuance.

It shall be the duty of the director, upon the filing of an application for a permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure and, if it shall appear that the proposed structure is in compliance with all the requirements of the Sign Ordinance and all other laws and ordinances of the City, the permit shall then be issued.

58.030 Permit Void if Sign Not Erected Within 120 Days.

If the work authorized under a permit has not been completed within 120 days after date of issuance, the permit shall become null and void. If reasonable cause for extension is approved by the City Manager or designee, an extension may be granted.

58.035 Permit Fees.

Every applicant, before being granted a permit hereunder, shall pay to the City of Independence a permit fee for each sign or other advertising structure regulated by the sign ordinance. Said fees shall be established by resolution of the City Council.

58.040 Fee and Permit Exemptions.

The following signs shall be constructed, located, erected, displayed, and maintained so as to comply with all provisions and regulations of this ordinance, provided, however, that no fee and no permit or application will be required for such signs:

- A. Temporary signs for nonprofit organizations (58.155), temporary political signs not exceeding 4 square feet (58.160), and temporary Real Estate “for sale” signs not exceeding 4 square feet in residential zones or 32 square feet in commercial or

industrial districts (58.165) when located on the owner's property and not on any power poles, street sign or traffic poles, or upon any public property.

- B. Professional name plates not exceeding two (2) square feet in area.
- C. On-Premise bulletin boards not over ten square feet in area for public, charitable or religious institutions.
- D. Signs denoting the architect, engineer or contractors engaged upon the project under construction when placed upon the job site and not exceeding 32 square feet in area.
- E. Occupational signs denoting only the name and profession of the occupant in a commercial building, public institutional building or dwelling house, and not exceeding two (2) square feet in area, under limits of the Sign Ordinance.
- F. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of incombustible materials and not to exceed 10 square feet in area.
- G. Official traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary emergency or non-advertising signs as may be approved by the City Manager or designee.
- H. Structures intended for a separate use such as phone booths, Goodwill containers, etc.
- I. Temporary signs not exceeding four (4) square feet.
- J. Window Signs.
- K. Historical site plaques.
- L. Official flags of the United States of America, counties, municipalities, official flags of foreign nations, and flags of internationally and nationally recognized organizations.
- M. Directional and safety signs.
- N. Sandwich (A-frame) Board, Reader Board or Temporary Signs - provided that:
 - 1. The height does not exceed 48 inches (30 inches if within 20 feet of an intersecting street).
 - 2. The width does not exceed 30 inches (24 inches if within 20 feet of an intersecting street).
 - 3. No more than one sign per business.

4. The sign is located immediately adjacent to the building or immediately adjacent to the curb and not on the sidewalk proper.
5. The sign is displayed only during hours when the business is open to the public.
6. The sign is located in the area between the street frontage and the business frontage.
7. The sign is made by a person or firm that is lawfully established to manufacture and/or produce commercial signs including signs painted freehand.

58.045 Permit - Revocable at Will.

All rights and privileges acquired under the provisions of this ordinance or any amendment thereto, are mere permits revocable at any time by the City Council.

58.050 Revocation of Permits.

The City Manager or designee is hereby authorized and empowered to revoke any permit issued to him or her upon failure of the holder thereof to comply with any provision of the Sign Ordinance. Sign permits issued based on inaccurate information shall be null and void.

58.055 Construction Standards.

All signs shall be designed and constructed to withstand wind pressure loads and seismic loads and dead loads as required in the Uniform Sign Code.

58.060 Construction Standards for Temporary Signs.

All temporary signs shall be constructed to the following standards: All exposed parts of the sign shall be constructed of such materials or treated in such a manner that normal rainfall or other moisture shall not harm, deface or otherwise affect the sign.

58.065 Unsafe, Damaged, Obsolete, or Illegal Signs to be Removed and/or Repaired; Procedure for Removal by City.

All signs, including exempt signs, together with their supports, braces, and guys shall be maintained in a safe and secure manner. If the Director shall find that any sign or other advertising structure regulated by Independence Sign Code is unsafe or insecure or has been constructed or erected or is being maintained in violation of the provisions of this ordinance or of the Uniform Sign Code, he shall give written notice to the permittee or owner thereof. If the permittee or owner fails to remove or alter the structure so as to comply with the standards herein set forth within 30 days after such notice, such sign or other advertising structure which is an immediate peril to persons or property [is] to be removed summarily and without notice. Should the permittee or owner of the property fail to remove or alter the sign or advertising structure as directed, he shall become subject to punishment, upon conviction thereof, under the provisions of Section 58.240.

58.120 Non-Conforming Signs.

If, at the time of passage of this Ordinance, a sign does not conform to the provisions of the Ordinance, said sign may be continued and maintained in reasonable repair. This "grandfather" status, however, shall not prevent the City from taking action where a clear and immediate threat to the public safety and welfare exists. Non-conforming signs, which are structurally altered, relocated, or replaced, shall comply immediately with all provisions of this ordinance. If a non-conforming sign is destroyed by any cause to the extent of more than 60 percent of its value, then and without further action by the Planning Commission, the sign shall be subject to all applicable regulations of the Ordinance. For the purpose of this Ordinance, the value of any sign shall be the estimated cost to replace the sign in kind, as determined by the Building Inspector. Independence City Code Section 12.25.150(14)(g) supercedes and takes precedence over this section of the Independence Sign Ordinance.

58.125 Banner Signs.

A. Permits.

1. No person, firm, corporation, or association shall display or cause to be displayed over or upon the city streets of the City of Independence, Oregon, any banner signs without having first obtained a permit, said permit being subject to the approval and authorization of the Public Works Superintendent.

2. A request for a banner permit shall be on forms provided by the City and shall show the approximate location of the proposed installation or installations, height above street or sidewalk, location on pole or building, the approximate size of banner sign to be displayed; whether the banner sign is to be attached to utility poles, buildings or other structures, together with the date of installation and the date of removal.

3. Upon satisfactory evidence that all requirements of this ordinance have been fully complied with by the applicant, and upon satisfactorily showing that permission of the property owner has been obtained and that all conditions, rules, and regulations required by said property owner have been complied with, the Public Works Superintendent shall issue a permit for the installation as requested, providing that, in his judgment, no other requirements or additional safeguards other than those mentioned herein, would be in the interest of the public safety.

B. Insurance Requirement.

The grantee shall file with the permit application a certificate of insurance naming the City of Independence and the property owner as additional insured at a minimum of \$1,000,000 combined single limit bodily injury and property damage. Said insurance to be for the protection of any persons sustaining bodily injury or property damage resulting from the placement, maintenance, or removal of said banner signs.

C. Installation/Removal Requirements.

1. Banner signs, other than those installed by utility company crews, are to be installed from a mechanical hoist or OSHA approved procedures and equipment, so that the individuals making installations do not have to climb utility poles.
2. The holder of a permit for a banner sign shall be responsible for the maintenance of said banner sign in a safe condition at all times and for its safe and prompt removal upon the expiration of the permit authorized or in the event said sign may become a hazard upon the public streets at any time.
3. Banners shall be prohibited as a permanent sign and are limited to 30 days, unless an extension is approved by the Planning Commission.
4. The Public Works Superintendent as well as the property owner involved, shall have the right to remove or cause to be removed any unauthorized, not maintained, improperly hung banners, or banners that are a hazard upon the public street without notice to the person, firm, corporation or association responsible for the display of the banner sign.

D. Private Commercial Advertising.

Section 58.125(A-C) does not apply to banners used for private commercial advertising that are contained wholly on private property. Other sections of the sign ordinance apply as appropriate.

58.130 Procedure for Obtaining Variance and Appeals.

Any person desiring a variance of the Sign Ordinance must first make application for a sign permit and have such permit denied or have the City Manager or designee fail to issue the permit. The applicant may appeal the decision to the Planning Commission, with or without a request for a variance.

58.135 Jurisdiction and Power of Planning Commission.

The Planning Commission shall have the power and duty to hear and decide appeals by the sign permit applicant from a decision of the City manager or designee denying or failing to grant, vary or revoke a sign permit. The Planning Commission may also make recommendations to the Council for changes to the Sign Ordinance.

58.140 Appeals Without Petition for Variance.

In appeals to the Planning Commission from decision of the Director denying a sign permit in connection with which no petition for variance has been filed, the Planning Commission's scope of review shall be limited to determining whether or not the decision is in accordance with the requirements of the Sign Ordinance and accordingly, affirm or reverse his decision. No variance from the requirements of the Sign Ordinance shall be granted or allowed. If the

decision is reversed, a copy of said decision shall be forwarded to the City Manager or designee.

58.145 Appeals With Petition for Variance.

In appeals from decision of the City Manager or designee denying or refusing to grant a sign permit in connection with which the appealing party or any other interested party has filed a Petition for Variance, the Planning Commission shall have the power and duty to hear, decide and grant or deny the requested variance from the provisions or requirements of the Sign Ordinance. The Planning Commission shall follow the requirements of the Independence Zoning and Development Code pertaining to Variances, except that the Planning Commission shall also be required to find that the granting of the variance will not be contrary to the general objective of the Sign Ordinance of moderating the size, number and obtrusive placement of signs and the reduction of clutter. Variances can be granted under the variance procedures herein to alleviate unusual hardships or extraordinary circumstances which exist. The variance granted shall be the minimum required to alleviate the hardship or extraordinary circumstances and the hardship or circumstance shall not be self-imposed.

58.150 Prohibited Signs.

No sign shall be constructed or erected:

- A. Which purports to be, or is an imitation of, or resembles an official traffic sign or signal, which bears the words "STOP", "GO SLOW", "CAUTION", "DANGER", "WARNING", or similar words.
- B. Which, by reason of its size, location, movement, content, coloring or manner of illumination may be confused with or construed as a traffic control device; or which hides from view any traffic or street sign or signal.
- C. Which are off-premise signs and billboards which advertises or publicizes an activity, business, product or service not conducted on the premises upon which such signs are maintained.
- D. Which rotates or has a rotating or moving part except those that conform to Section 58.125 of this ordinance and have all moving parts at least eight (8) feet above ground level. Rotating signs must conform to all sections of this ordinance including those relating to size and height restrictions. Reader board signs shall not be allowed to rotate. Barber poles are excepted from this provision.
- E. Which consists of banners, flags, posters, pennants, ribbons, streamers, strings or light bulbs, spinners or elements creating sound or smell which are signs defined by the code, except holiday decorations.
- F. Which shall be located so as to substantially obstruct the view of a sign on adjoining property when viewed from a distance of 200 feet at any point four (4) feet above the roadway grade of the traffic lane closest to the street property line.

- G. Which shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision.
- H. Which flash; except for signs conveying time, temperature, no sign shall be wholly or partially illuminated by an internal or external light source that is flashing or intermittent.
- I. Wall graphics or murals except by permission of the City Council.
- J. Signs attached to utility, streetlights, or traffic control standard poles or otherwise located in the public right-of-way without a permit.
- K. Signs in a dilapidated or hazardous condition.
- L. Signs on doors, windows, or fire escapes that restrict free ingress or egress.
- M. Swinging signs.
- N. Changing Image Sign (See Definition).
- O. Signs which focus or flash a beam of light into the eyes of a driver of a motor vehicle upon a street within 200 feet from such sign.

58.155 Temporary Signs for Nonprofit Organizations.

Temporary advertising signs, advertising picnics, bazaars, luncheons, breakfasts, etc., of churches, service clubs, fraternal organizations and other non-profit or charitable organizations, may be erected for a period not to exceed two (2) weeks before the event advertised. Each such sign shall conform to all provisions of the Sign Ordinance. All such signs shall be removed by the sponsoring organization not later than five (5) days following the event. Any such signs which have not been removed within five (5) days after the event shall be removed by the City of Independence, and the sponsoring organization, or, if such cannot be found, the owner of the property upon which the sign was erected, shall be charged the cost of removing such sign.

58.160 Temporary Political Signs.

Temporary political signs, purporting to advertise candidates or issues, may be erected on private property, during the campaign for a period of 60 days prior to the election in which such candidates or issues are to be voted upon. Such signs shall conform to all other applicable provisions of the Sign Ordinance, and shall be removed not later than the fifth day following such election. Any such signs which have not been removed by the sixth day following such election may be removed by the City of Independence, and the owner of the property upon which the sign was erected shall be charged the cost of removing such sign. Such signs shall not exceed six (6) square feet in area.

58.165 Temporary "For Sale" Signs.

A temporary "For Sale" sign, not exceeding 4 square feet in area or a maximum dimension of four (4) feet, may be erected on private property, provided that it advertises the sale, lease or rental of only the property upon which it is erected. One additional "For Sale" or "Open House" sign limited to the same size may be placed on private property with consent of the person in possession of the property and outside of vision clearance areas.

58.170 Temporary Subdivision Signs.

A temporary subdivision sign may be erected upon a tract of land or a subdivision advertising the sale of the tract or the lots in the tract and not exceeding 42 square feet in area. The sign shall be reduced in size by six (6) square feet for each lot less than seven (7) in the subdivision.

58.175 Temporary Garage and Lawn Sale Signs.

Temporary advertising sign advertising a garage or lawn sale may be erected as provided under Independence City Code Sections 58.060, 58.180, and 58.185.

58.180 Specific Signs Permitted in any Residential Zone.

The following signs and no other are permitted in any residential zone:

- A. One permanent ground sign for each subdivision or Planned Unit Development, not exceeding 24 square feet in sign area, five (5) feet in height or six (6) feet in length; or one wall sign not exceeding 32 square feet in area. Such sign shall denote only the name of the subdivision or Planned Unit Development. It shall be located only at the principal entrance to a subdivision or Planned Unit Development.
- B. One permanent sign for apartment houses, rest homes, and churches which may be one ground sign not exceeding 24 square feet in sign area, eight (8) feet in height or six (6) feet in length or one wall sign not exceeding 24 square feet in area.

58.185 General Requirements of Signs in any Residential Zone. Shall conform to the following requirements:

- A. No sign shall be illuminated with or by a flashing or intermittent light source. All lights shall be directed away from and not be reflected upon adjacent premises. All illumination shall be indirect.
- B. No permitted sign shall be animated, shall rotate, or shall contain moving parts.
- C. Where a building fronts on two or more streets, the permitted sign shall be erected and maintained on or in front of the principal side of the building.
- D. No ground sign shall be erected or maintained within seven (7) feet from back

of sidewalk. If no sidewalk exists the sign shall be placed 25 feet from approximate centerline of abutting street. Permitted signs shall conform to all other location requirements of the Sign Ordinance.

58.190 General Requirements for Signs in Commercial and Industrial Zones.

A. Every business shall be allowed a total sign area, including both permanent and temporary signs, but excluding directional and safety signs; of $\frac{3}{4}$ square feet per property frontage foot to a maximum of 150 square feet. If all signs are wall signs, a total of 1.5 square feet to a total maximum of 300 square feet are allowed. Signs in commercial and industrial zones shall also conform to the requirements of Section 58.190 through 58.225.

B. In addition, every business shall be allowed a temporary display of signs and banners for special promotions provided that the promotional displays are used no more than one time per month and for no more than 10 consecutive days and do not exceed the area allotted in subsection (A).

58.195 Projecting Sign Requirements.

A. Distance. The minimum clearance from the grade or sidewalk below to the lowest portion of the sign shall be eight (8) feet, except barber poles which may have a six-foot minimum. Barber poles may not project more than 18 inches from the building surface.

B. Height. The maximum height of the sign shall be not more than 25 feet from the level of the street. It must also not be more than three (3) feet above the top of the parapet wall or the roof line of the wall, whichever is higher.

C. Projection Limitation. Projection shall conform with Table 4 of the Uniform Sign Code.

D. Each business shall be allowed a maximum of three (3) wall signs.

58.200 Wall Facades for Signs.

A. Except as provided in subsection (B) of this section, wall facades for signs may extend the full length of the wall to which they are attached but shall not exceed a height above the roof line of the wall or the top of the parapet greater than four (4) feet.

B. If a wall façade for signs extends the full length of the wall, the maximum height of the wall façade shall not exceed four (4) feet measured from the roof line directly behind the wall to the top of the wall façade. If it is less than full length, there shall be five (5) feet clearance at the end of a wall and such façade shall conform to the Uniform Building Code.

- C. The supporting structure for all wall facades for signs shall be completely enclosed so as not to be visible from any public street, alley or adjacent property.

58.205 Limitation on Signs Attached to Marquees.

Signs attached to, or hung from a marquee shall be completely within the borderline of the marquee outer edge. Signs located on the faces of a marquee shall be regulated as wall signs. Signs may be located under a marquee if a vertical clearance of eight (8) feet is maintained between the sign and the grade below. No supporting member of any sign suspended under a marquee shall pierce or extend through the marquee. Under-the-marquee signs shall be limited to a vertical height of 14 inches and a maximum sign area of six (6) square feet.

58.210 Advertising Limited on Awnings and Canopies.

No advertising shall be placed on any awning or canopy except that the name of the owner and the business, industry or pursuit conducted within the premises may be painted or otherwise permanently placed in a space not exceeding 8 inches in height on the front and side portions thereof.

58.215 Signs Permitted for Second Story Business.

Businesses maintained on the second floor of a two-story building, except businesses which also occupy all of a portion of the first floor, shall be entitled to fifty percent of the dimensions and distances set forth in this sign regulation, excepting no projecting signs shall be permitted above the second story of the building, unless otherwise provided in the Sign Ordinance.

58.220 Signs for Integrated Shopping Centers.

- A. Signs permitted by this section shall be the only signs permitted in an integrated shopping center. Specific permitted signs are:

1. One freestanding sign for the center for each street frontage on a designated arterial or designated collector street. The height of such sign is limited to 25 feet. The maximum height may be increased five (5) additional feet if the added portion is used solely for ornamental sign design and if it does not contain any advertising message or symbol. Portions of such sign used solely for ornamental sign design erected in the area above the principal portion of the sign and within the five (5) additional feet of maximum height permitted by this paragraph shall not be computed in determining sign area. Sign area of such sign is limited to 150 square feet.
2. Temporary promotional or sign displays for a center-wide promotion or event, to be removed immediately upon cessation of such event or promotion.
3. Directional signs identifying vehicle entrance and exists, limited to eight (8) square feet in area and four (4) feet in height.

4. On-premise directional sign limited to eight (8) square feet in area, designed primarily to be used only to identify and locate an office, entrance, exit, telephone or similar place.
 5. Temporary signs as provided in sections 58.150 through 58.475.
- B. Special signs for individual businesses in integrated shopping centers are:
1. One wall sign for each facing or frontage on a designated arterial or designated collector street or parking lot.
 2. One under-marquee sign for each frontage for each business.

58.225 Signs Within Setbacks.

Where the supporting member of any sign is to be erected within a special setback area established pursuant to the Independence Zoning and Development Ordinance, no permit shall be issued for such sign until the person who will own the sign and the owner of the premises upon which the sign will be erected, enter into a written agreement with the City of Independence, Oregon, providing for removal of such supporting member when necessary.

The agreement shall provide that the sign owner and the owner of the premises, their administrators, executors, heirs, successors and assigns shall be jointly and severally liable for removal of the sign after 60 days written notice from the Building Official. Such notice shall be given by the City of Independence when necessary. The agreement shall further provide that if the persons responsible for removal of the supporting member do not remove it, the City of Independence may do so at expense of such persons and that the cost of expense may be a lien against such land or premises and may be collected or foreclosed in the same manner as liens entered in the docket of the City. The agreement shall also provide that the owner of the affected premises and the owner of the sign shall not be entitled to any damages or compensation on account of moving or removing of the supporting member or portion thereof. This provision shall not be construed as denying the owner of such property of the right to compensate for any land taken for the widening of any street. The agreement shall be acknowledged before an officer authorized to take acknowledgements to deeds and who is to authorize the same to be of record. The City of Independence shall cause such agreement to be recorded at the office of the county officer having custody of the deed records for Polk County.

58.230 Uniform Sign Code Still in Effect.

The provisions of the Uniform Sign Code, as adopted from time to time are still in full force and effect.

58.235 Periodic Review and Assessment.

The Code Enforcement Officer of the City of Independence will periodically review and assess the conformity of existing signs to this Ordinance.

58.240 Penalties.

Any violation of the provisions of this chapter shall be a violation of the Independence City Code and shall result in a restraining order, stop-work order or fine and any other remedy authorized by the laws of the State of Oregon. None of the remedies listed above shall be exclusive.

SUBCHAPTER 59

HISTORIC PRESERVATION

59.05 Purpose.

The designation of historic resources allows the city to formally recognize and protect significant elements of Independence history; enhance the visual character of the city, foster public appreciation of and civic pride in the beauty of the city and the accomplishments of the past; strengthen the local economy by protecting and enhancing the city's attractiveness to residents, tourists and visitors; stabilize and improve property values within the city; promote private and public use of historic resources for education, prosperity and the general welfare of the people. [Ord. 1254 § 1 (part), 1992: prior code § 27.001 (part)]

59.10 Chapter applicability.

This chapter is applicable to all properties in the Independence historic district and to all historic resources located outside the Independence historic district which have been designated by the city as historic landmarks. [Ord. 1254 § 1 (part), 1992: prior code § 27.001 (part)]

59.20 Definitions.

For the purpose of carrying out the intent and purposes of this chapter, words, phrases and terms, as used in this chapter, shall be deemed to have the meaning ascribed to them in this section.

"Alteration" means the addition to, removal of or from, physical modification of, or material change to any exterior part or portion of a historic resource, including designated fences, signs or trees and accessory buildings. Alteration shall not include painting or necessary repairs.

"Certificate of appropriateness" means written authority granted by the city following a review procedure for exterior alteration, removal or demolition of a historic resource or new construction within a historic district.

"Commission" means the Independence historic preservation commission.

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

"Exterior" means any portion of the outside of a historic resource or any addition thereto.
"Historic district" means a geographic area no less than two acres including all land and streets with a high concentration of historical, architectural or archeological resources which

has been designated by the Independence city council. Exact boundaries shall be established by ordinance and mapped.

“Historic landmark” means a designated historic resource outside of a historic district.

“Historic resource” means a designated building, site, object, fence, sign, tree or structure of architectural, historic or archaeological significance.

“Interested person” means:

- A. Any occupant, owner, agent for the owner or purchaser of real property for which an application for designation of a historic district, historic resource or certificate of appropriateness is being made;
- B. Owners of record of property on the most recent property tax assessment roll where such property is located within one hundred feet of the property which is the subject of the notice;
- C. Any person actually aggrieved by a decision; or
- D. A member of a recognized historic preservation-interest group who has requested in writing that they be notified. [Ord. 1254 § 1 (part), 1992: prior code § 27.005]

59.30 Historic Preservation Commission-Powers and duties.

- A. An Independence Historic Preservation Commission (Commission), consisting of seven members, shall be appointed by the mayor and subject to confirmation by the City Council.
- B. The Commission shall have the following powers and duties:
 - 1. Conduct or cause to be conducted an ongoing survey and inventory of historic resources;
 - 2. Recommend to the City Council the adoption of criteria and prescriptive standards to be used by the Commission in reviewing applications required by this chapter;
 - 3. Participate in, promote, conduct or delegate to other interest groups public information, education and interpretive programs pertaining to historic preservation issues;
 - 4. Make recommendations to the City Council concerning designations of historic districts, relevant ordinances and resolutions, preservation-related items upon referral from the City Council and conflicts of land use as they relate to the historic resources of the community;

5. Perform other functions that may be designated by the City Council pertinent to historic preservation.
- C. The following matters must be submitted to the Commission for its approval or decision:
1. Historic landmark and resource designations;
 2. Historic district nominations;
 3. Applications for certificates of appropriateness. [Ord. 1254 § 1 (part), 1992: prior code § 27.010]

59.40 Certificate of appropriateness-Application and review.

A. The procedures established by this section are applicable to all actions taken under the authority of this chapter unless specifically established otherwise. All actions for exterior alteration, removal or demolition of a historic resource or new construction within a historic district shall be initiated by submission of a request for a certificate of appropriateness, in a format provided by the city.

B. Any action required or authorized under the terms of this subchapter may be initiated by the City Council, the Historic Preservation Commission, or by any other interested person. Initiations by the City are made without prejudice towards the outcome.

C. Submission of Application.

Applications for review by the Commission must be submitted at least thirty days in advance of the next regularly scheduled public meeting of the Historic Preservation Commission unless waived by the City when legal notice can otherwise be achieved. All documents or evidence relied upon by the applicant shall be submitted to the city and made available to the public at least twenty days prior to the meeting date. If additional documents, evidence or written materials are provided in support of a quasi-judicial application less than twenty days prior to the public hearing, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 227.178.

D. Method of Review.

Requests for designation of a historic district or for demolition of a historic resource shall be heard by the Commission at a public hearing. Notices shall be sent to all interested persons at least twenty days prior to the hearing. All other actions shall be reviewed by the Commission at a public meeting after which interested persons shall be notified in writing of the findings and decision of the commission, and the right to have the matter reconsidered by the Commission at a public hearing. An interested person shall not be entitled to an appeal before the City Council of any

determination by the Commission until after a public hearing has been held in accordance with the provisions of this subsection.

E. Relationship to Other Land Use Reviews.

Projects which require an historic review may also require other land use reviews. If other reviews are required, the review procedures may be handled concurrently.

F. Decision.

All decisions, whether to approve or deny the request, must be in writing and must specify the basis for the decision.

G. Appeals.

Any interested person may, within fifteen days from the date of a final decision, appeal a decision of the Historic Preservation Commission to the City Council by filing a written notice of appeal. The filing of such notice shall have the effect of suspending any challenged permits pending final determination by the city council. Upon receipt of the notice, a public hearing shall be set for the next regular City Council meeting which is at least thirty days from the date of receipt of the notice. [Ord. 1254 § 1 (part), 1992: prior code § 27.015]

59.50 Designation of historic resources-Application and review.

A. Application Contents.

An application for designation of a resource must include the following information:

1. A written description of the boundaries of the proposed district or the location of the proposed resource or property to be evaluated;
2. A map illustrating the boundaries of the proposed district or the location of the proposed resource of the property to be evaluated;
3. A statement explaining the following:
 - a. The reason(s) why the proposed district, resource or property should be designated,
 - b. The reason(s) why the proposed boundaries of the proposed district are appropriate for designation,
 - c. The potential impact, if any, that designation of the proposed district or resource would have on the owners, surrounding residents and other property owners in the area.

B. Review Criteria. The Commission must find that all of the following criteria have been met in order to approve a proposed resource or district:

1. The proposed resource or district has historical significance because:
 - a. There is an association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state or nation;
 - b. There is an association with an event that has made a significant contribution to the city, county, state or nation;
 - c. There is an association with broad patterns of political, economic or industrial history in the city, county, state or nation;
 - d. Existing land use surrounding the resource contributes to the integrity of the historic period represented;
 - e. The resource contributes to the continuity or historic character of the street, neighborhood and/or community; or
 - f. The property is fifty years old or older in conjunction with other criteria listed above.
2. The proposed resource or district has architectural significance because:
 - a. It is an example of a particular architectural style, building type and/or convention;
 - b. It has a high quality of composition, detailing and/or craftsmanship;
 - c. It is an example of a particular material and/or method of construction;
 - d. The resource retains its original design features, materials and/or character;
 - e. It is the only remaining, or one of a few remaining resources of a particular style, building type, design, material or method of construction; or
 - f. It is a visual landmark.
3. The proposed resource or district is listed on the National Register of Historic Places.

4. The proposed site has potential to yield information significant in prehistory or history. [Ord. 1254 § 1 (part), 1992: prior code § 27.020]

59.60 Re-rating or removal of historic resource designation.

A. Purpose. Periodically it may be necessary to re-rate or remove the designation of a historic resource. Re-rating or removal is an effort to reflect changing conditions, community values or needs.

B. Review Criteria. The Commission must find that one of the following criteria is met in order to approve a re-rating or remove a resource from the historic inventory:

1. The inventory was in error;
2. Additional research has uncovered an association with a person, group, organization, institution or events that have made a significant contribution to the city, county, state or nation or additional research has been compiled regarding the architectural significance of a structure or style;
3. Alterations to the structure have caused it to more closely approximate the historical character, appearance or material composition of the original structure;
4. Alterations to the structure have removed distinguishing features or otherwise altered the exterior such that the existing rating is no longer justified;
5. The reasons for designating the historic resource no longer apply. [Ord. 1254 § 1 (part), 1992: prior code § 27.025]

59.70 Review of exterior alterations.

A. Purpose. The purpose of reviewing alterations to historic resources is to encourage the preservation of characteristics which led to its designation as a historic resource. Review is required for all exterior alterations or additions to historic resources.

B. Exemptions from Review. Historic review is not required for interior alterations or for repair, maintenance, and replacement with comparable materials, or a change in paint color, nor is review required where there is no change in appearance or material composition, from the existing structure.

C. For all other requests, the Commission must find that one of the following criteria has been met in order to approve an alteration request:

1. The proposed alteration will cause the structure to more closely approximate the historical character, appearance or material composition of the original structure than the existing structure; or

2. The proposed alteration is compatible with the historic characteristics of the area and with the existing structure in massing, size, scale, materials and architectural features.

D. The Commission shall use the Secretary of the Interior's standards of rehabilitation, listed below, as guidelines in determining whether the proposed alteration meets the review criteria.

E. The following standards are to be applied to rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining exterior characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic material or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features of architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes and construction technique or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic material shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

F. Conditions of Approval. In approving an alteration request, the city may attach conditions which are appropriate for the promotion and/or preservation of the historic or architectural integrity of the historic resource. All conditions must relate to a review criteria. [Ord. 1254 § 1 (part), 1992: prior code § 27.030]

59.80 New construction within a historic district-Application and review.

A. Purpose. The purpose of reviewing the exterior design of new construction within an historic district is to ensure that new structures over one hundred square feet are compatible with the character of that district.

B. Application Contents.

1. A site plan showing the location of the structure on the site, setback dimensions, the location of driveways and landscape areas, and the general location of structures on adjacent lots;

2. Elevations sufficient in detail to show the general scale, bulk building materials and architectural elements of the structure.

C. Review Criteria. The commission must find that the request meets the following applicable criteria in order to approve the new construction request:

1. The development maintains any unifying development patterns such as sidewalk and street tree location, setbacks, building coverage and orientation to the street.

2. The structure is of similar size and scale of surrounding buildings, and as much as possible reflects the craftsmanship of those buildings.

3. Building materials are reflective of and complementary to existing buildings within the district. [Ord. 1254 § 1 (part), 1992: prior code § 27.035]

59.90 Review of demolitions.

A. Purpose and Applicability. Demolition of historic resources is an extreme and final measure. The purpose of reviewing demolition requests involving historic resources is to explore all possible alternatives for preservation. This section is applicable to designated historic resources and to all buildings in the city over seventy-five years old.

B. Application Contents. All demolition applications must be submitted to the commission for a public hearing and shall contain the following information:

1. A description of the previous and existing uses of the structure and the intended future use of the property;
2. A drawing showing the location of the building on the property and any other buildings which will remain;
3. The overall height of the building and the general type of construction;
4. A written statement describing why demolition of the property is sought and what measures have been taken to seek alternative disposition of the resource.

C. Review Criteria. The Commission must find that the request meets at least one of the following applicable criteria in order to approve a demolition request:

1. The structure cannot be economically rehabilitated on the site to provide a reasonable income of residential environment compared to other structures in the general area.
2. There is a demonstrated public need for the new site which outweighs any public benefit which might be gained by preserving the subject buildings on the site.
3. The proposed development, if any, is compatible with the surrounding area considering such factors as location, use, bulk, landscaping, and exterior design.
4. If the building is proposed to be moved, the new site and surrounding area will benefit from the move.
5. The building has been declared by the Building Official to be dangerous pursuant to the Uniform Code for the Abatement of Dangerous Buildings.

D. Following a public hearing on the application to demolish, the Commission may either approve the request or invoke a stay of up to one hundred eighty days to the demolition. During the stay, the Commission will notify the owner of potential rehabilitation programs and benefits and encourage public or private acquisition and

restoration of the resource. The applicant shall be required to advertise the building for sale, such advertisement to be published in a publication most likely to be read by persons interested in the purchase or removal of a historic resource. The name and address of such publications shall be kept on file with the city.

E. City-Initiated Demolitions. Prior to the issuance of a notice to abate issued pursuant to the Uniform Code for the Abatement of Dangerous Buildings, the building official must give at least thirty days written notice to the Commission of existing Uniform Building Code violations and an opinion of the structural condition of the property. At a public hearing the Commission shall determine, after making findings in accordance with the review standards established in subsection C of this section, whether to authorize the Building Official to proceed without further review by the Commission, or whether to attempt to seek alternative disposition of the property. Should alternative disposition of the property be sought, the Commission shall follow the procedural requirements established in subsection D of this section. Notwithstanding a declaration by the Commission to seek alteration, disposition of property, no action taken by the Commission shall violate any of the procedural time-lines established in the Uniform Code for the Abatement of Dangerous Buildings once a formal notice to abate has been issued by the Building Official. [Ord. 1254 § 1 (part), 1992: prior code 27.040]

59.100 Maintenance and repair of architectural features.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural features which do not involve a change in design, material or the outward appearance of a resource, nor to prevent the construction, reconstruction, alteration or demolition of such feature(s) which the city's Building Official shall certify in writing required by an emergency affecting the public safety. [Ord. 1254 § 1 (part), 1992: prior code § 27.045]

59.110 Public projects.

All projects sponsored by the City or other governmental agencies is subject to the same review as private projects. [Ord. 1254 § 1 (part), 1992: prior code § 27.050]

59.120 Violation-Penalty.

Any violation of any provision of this chapter shall result in a restraining order, stop-work order or fine, the sum of which shall be set by resolution of the City Council and any other remedy authorized by the laws of the State of Oregon. None of the remedies listed above shall be exclusive. [Ord. 1254 § 1 (part), 1992: prior code § 27.055]

SUBCHAPTER 60

PLANNED UNIT DEVELOPMENT

60.005 Purpose

The purpose of this chapter is as follows:

- A. To permit the development of a group of residences (single-family dwellings, duplexes, multiple-family dwellings, or manufactured dwellings) as a planned interrelated entity;
- B. To encourage more efficient, innovative, and coordinated development than might occur if such a group of residences were developed as an aggregation of individual buildings on separate lots; and
- C. To provide standards for planned unit developments.

60.010 Definitions

- A. Planned Unit Development: A complex of residential structures constructed by a single owner or group of owners acting jointly and planned as a single unit according to the provisions of this chapter. The phrase "planned unit development" may be abbreviated "PUD".
- B. Common Open Space: An area within a PUD, which area is designed and intended for the use or enjoyment of all residents of the development or of the public in general.
- C. Homeowners Association: An association of owners or tenants created as a non-profit corporation under the laws of this state and having as its purpose the maintenance and enforcement of covenants and restrictions on the use and maintenance of common open space and other common facilities within a PUD.

60.015 PUD as a Conditional Use

An application for a PUD shall be processed as a conditional use in accordance with the procedures set forth in Chapter 11, "Land-Use Actions", and Chapter 71, "Conditional Uses". The applicant for a PUD shall be subject to the requirements of Chapters 11 and 71 in addition to the requirements of this chapter.

60.020 General Findings Necessary for Approval of a PUD

The Planning Commission shall approve a planned unit development only if it finds that the PUD will satisfy the requirements of this chapter and that the following conditions exist:

- A. The plan proposed for the PUD is an effective and unified treatment of the development possibilities on the project site, is consistent with the Comprehensive

Plan, and makes appropriate provisions for the preservation of natural features such as streams, trees and rough terrain.

B. The proposed PUD will be compatible with the area surrounding the project site and will make no greater demand on public facilities and services than other authorized uses of the land.

C. The financing available to the applicant is sufficient to assure completion of the planned unit development.

D. All requirements for land divisions, as applicable shall be met.

E. All land use and development standards are met, except as modified under Section 60.030.

60.025 Minimum Area of a PUD Site

A lot, parcel, or tract proposed for development as a PUD shall have an area of at least three (3) acres.

60.030 Dimensional Requirements for a PUD

A. The minimum lot area, width, frontage, and yard requirements applying to individual buildings in the zone in which a PUD is proposed shall not apply within a PUD.

B. If the spacing between main buildings is not equivalent to the spacing which would be required between buildings developed under this ordinance on separate parcels, other design features shall provide light, ventilation, and other characteristics equivalent to those obtained from the spacing requirements.

C. The maximum height of any building in a PUD may exceed those building heights prescribed in the zone in which the PUD is proposed if open space, building setbacks, and other design features of the PUD are used to avoid any adverse effects from the greater height.

D. The lot coverage of any PUD shall not exceed 25 percent of the land area being developed, exclusive of public and private streets.

E. Front yard and rear yard setback requirements shall not apply, except that a minimum front yard setback of 15 feet is required for any garage which faces a public or private street.

F. Side yard setback requirements shall not apply, except that all detached accessory structures shall meet Uniform Building Code requirements for fire walls.

60.035 Density of PUD

The density of the PUD shall not exceed the maximum density permitted in the zone in which the PUD is to be developed.

60.040 Common Open Space

A. No open area may be accepted as common open space within a PUD unless it meets the following requirements:

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

2. The common open space is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the PUD, considering its size, density, expected population, topography, and the number and type of dwellings provided.

B. Common open space shall be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. Buildings, structures, and improvements to be located in the common open space shall be appropriate to the uses which are authorized for the common open space.

C. The development schedule which is part of the PUD plan shall coordinate any improvement of the common open space with the construction of residential dwellings in the PUD.

D. If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that such buildings, structures, and improvements will be completed. The city manager shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.

E. No common open space may be put to a use not specified in the final plan unless the final plan is first amended to permit the use. However, no change of use may be considered 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.

60.045 Conveyance of Common Open Space

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

1. To a public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it; or

2. To a homeowner's association, 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. Such an association shall be formed and continued for the purpose of maintaining the common open space.

B. 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.

60.050 Accessory Uses Within a PUD

The following accessory uses may be approved as a part of a PUD:

A. Golf course;

B. Private park, lake or waterway;

C. Recreation area;

D. Recreation building, clubhouse, or social hall;

E. Any other accessory structure which the Planning Commission finds is designed to serve primarily the residents of the PUD and is compatible with the design of the PUD. Nothing in this provision shall be construed as authorizing the development of commercial or industrial uses in a residential zone.

60.060 Tentative Plan For PUD

A. The applicant for tentative approval of a PUD shall submit a tentative plan to the Planning Commission. The application for tentative plan to the Planning Commission. The application for tentative approval shall be considered a request for a conditional use. Such application shall be processed according to the provisions of Chapter 11, "Land-Use Actions, and Chapter 71, "Conditional Uses", and shall be subject to the requirements of those chapters.

B. A pre-application conference with the City Manager or designee shall be required for the purpose of gathering general information and guidelines prior to the submission of a tentative plan.

C. Maps, plans, and drawings required for the tentative plan shall be drawn to scale and shall be reproducible by the Ozalid (blueprint) process or by a similar means. Fifteen copies of all the maps, drawings, plans, and written statements which comprise the tentative plan shall be submitted with the application for tentative approval.

- D. The tentative plan for a PUD shall include the following:
1. A map showing street systems, lot lines, and other division of land for management, use, or allocation.
 2. A map showing 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.
 3. A plot plan for each building site and common open space area, showing the approximate location of buildings, structures, and other improvements and indicating the open spaces around buildings and structures.
 4. Elevation drawings of typical proposed structures.
 5. A development schedule indicating the following:
 - a. The approximate date when construction of the project can be expected to begin.
 - b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
 - c. The anticipated rate of development.
 - d. The approximate dates when each stage in the development will be completed.
 - e. The area, location, and degree of development of common open space that will be provided at each stage.
 6. Agreements, provisions, or covenants which govern the use, maintenance, and continued protection of the PUD and any of its common open space areas.
 7. A written statement containing the following information:
 - a. An explanation of the character of the PUD and the manner in which it has been planned to take advantage of the PUD regulations.
 - b. A statement of the proposed financing;
 - c. A statement of the present ownership of all the land within the PUD.

8. The following plans and diagrams may be required if the Planning Commission finds that the PUD creates special problems of traffic, parking, landscaping, or economics:

- a. An off-street parking and loading plan;
- b. A circulation diagram indicating proposed movement of vehicles, goods, and pedestrians within the PUD and to and from the surrounding neighborhood, including any features and traffic regulation devices needed to facilitate traffic circulation;
- c. A landscaping and tree plan;
- d. An economic feasibility report or market analysis.
- e. Special studies prepared by qualified professionals to determine potential traffic, geologic, noise, environmental, natural resource, or other impacts, and required mitigation.

60.075 Action on Tentative Plan

The Planning Commission may approve, deny, or approve with modifications or conditions any tentative plan for a PUD or one or more phases of a PUD.

60.080 Filing Time for Final Plan

The final plan for a PUD or for an approved phase of a PUD shall be filed with the City Manger within 180 days of the date of which the Planning Commission approved the tentative plan.

60.085 Extension of Filing Time for Final Plan

The Planning Commission may allow an extension of one (1) year beyond the required filing time for a final plan, provided that:

- A. No changes have been made to the original conceptual development plan as approved;
- B. The applicant can show intent of applying for final plan review within the one (1) year extension period.
- C. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the Tentative Plan approval was based; and
- D. The request for the extension is in writing and is submitted at least 30 days prior to expiration of the Tentative Plan approval.

60.090 Failure to File Final Plan

If a final plan for a PUD which has received the tentative approval of the Planning Commission is not submitted within the required filing period, and if no extension of the required filing period has been granted by the Planning Commission, the tentative approval of the Planning Commission shall become void.

60.095 Final Plan in Phases

A final plan may be submitted for one or more phases of the PUD only if such phases have been approved by the Planning Commission as a part of the tentative plan.

60.100 Final Plan

The final plan, when it has been approved and recorded, shall be a permanent public record of the PUD. The final plan shall contain, in final form, all information contained in the tentative plan approved by the Planning Commission. The final plan shall be prepared in a form suitable for inclusion in the deed records of Polk County, and shall include the following:

- A. If lots are to be sold, a "hard copy" subdivision plat in the form prescribed in ORS Chapter 92.
- B. If condominiums are to be sold, a condominium plat as required under ORS Chapter 91.

60.105 Review of Final Plan

- A. The final plan shall be reviewed by the Planning Commission's staff and compared with the approved tentative plan. The Planning staff shall prepare a written statement indicating whether the final plan is in substantial conformance with the approved tentative plan and whether any conditions imposed by the Planning Commission have been complied with.
- B. The final plan shall be submitted to the Polk County Surveyor. The county surveyor shall examine the plan for accuracy and completeness and may collect such fees as are provided by State law for such review.

60.110 Approval of the Final Plan

- A. The Planning Commission shall review the final plan and the reports of the planning staff and the county surveyor. The Planning Commission shall approve the final plan if it is found to be in substantial conformance with the approved tentative plan. Final approval shall not require a public hearing but shall require approval by a majority of the Planning Commission members present and voting. If the final plan is approved, it shall be signed by the chairperson of the Planning Commission.
- B. After the final plan has been approved by the Planning Commission, it shall be sent to the City Council for the approval and signature of its members. Any bond

agreements, deeds, Bancroft petitions and statements of financial responsibility shall be submitted to the City Council with the final plan. The approval of the final plan shall become null and void if the final plan is not recorded within 30 days after the last required signature is obtained.

60.115 Sale of Property Prior to Final Recording

No person shall dispose of, transfer, lease, or sell, or agree, offer, or negotiate to sell any lot, building, or membership in any PUD before such PUD has received final approval in accordance with the provisions of this chapter and its final plan has been recorded with the Polk County Clerk.

60.120 Building Permits

The City Building Official shall not issue any building permit for any structure within a proposed PUD unless such PUD has received final approval in accordance with the provisions of this chapter and its final plan has been recorded with the Polk County Clerk.

60.125 Amendment of Final Plan

The recorded final plan of a PUD may be amended. Such amendment will be considered and processed in the same way as an application for a new PUD. No modification or amendment of an approved final plan is to be considered a waiver of the covenants limiting the use of the land, buildings, structures and improvements within the planned unit development; and all rights to enforce these covenants against any change permitted by this section are expressly reserved.

60.130 Assurance of Compliance

The Planning Commission or the City Council may require performance bonds or other measures to ensure that an approved PUD will be developed to required standards.

60.135 Control of the Development After Completion

The approved final plan shall continue to control the planned unit development after the final PUD is finished, and the following shall apply:

- A. The use of the land and the construction, modification, or alteration of a building or structure within the planned unit development shall be governed by the approved final plan.
- B. No change shall be made in development contrary to the approved final plan without approval of an amendment to the plan except as follows:
 - 1. Minor modifications of existing buildings or structures may be authorized by the Building Official if they are consistent with the purposes and

intent of the final plan and do not increase the cubic footage of a building or structure.

2. A building or structure that is destroyed or substantially damaged may be reconstructed without approval of an amended planned unit development if the Planning Commission finds that the proposed reconstruction conforms to the general character and purpose of the final plan.

SUBCHAPTER 61

MANUFACTURED DWELLING SITING AND DEVELOPMENT

61.005 Purpose

The purpose of this chapter is to provide standards for the establishment, expansion, or alteration of manufactured dwelling parks; to provide standards for placement of manufactured dwellings on individual lots and to ensure that manufactured housing development provides affordable and quality housing in accordance with the goals of the Independence Comprehensive Plan.

61.010 Application of Standards

The standards and requirements set forth in this chapter shall apply, as designated, to any individually-sited manufactured dwelling, manufactured dwelling within a park, or manufactured dwelling park established, expanded, or altered after the date of adoption of this ordinance.

An application for a manufactured dwelling park shall be processed as a conditional use in accordance with the procedures set forth in Chapter 11, "Land-Use Actions", and chapter 71, "Conditional Uses". The applicant for a manufactured dwelling park shall be subject to the requirements of Chapters 11 and 71 in addition to the requirements of this chapter. For manufactured dwelling parks, the Planning Commission shall have the power to impose conditions for requirements beyond those set forth in this chapter in accordance with the provisions of Chapter 71, "Conditional Uses".

61.025 Development Standards

- A. Density: The maximum density of a manufactured dwelling park shall not exceed 10 units per gross acre.
- B. Minimum Area: The minimum area of any space to be occupied by a manufactured dwelling and its accessory structures shall be 2,500 square feet.
- C. Utility Connections: Each space shall be equipped with connections for running water, electricity, and sewage disposal. The cost of such utility connections from the property line to the manufactured dwelling space shall be born by the owner and shall not be paid by the city.
- D. Roadways: All roadways within the manufactured dwelling park shall be paved with asphaltic concrete or a similar hard surface and shall be maintained in good condition thereafter. Where parking is permitted on park streets, such street shall be 30 feet minimum width; all streets without parking shall be 20 feet minimum width.
- E. Parking: Each manufactured dwelling space shall have sufficient parking area for two vehicles. Such parking area shall be paved with asphaltic concrete or similar

hard surface and shall have a minimum area of 400 square feet. Spaces may be designed end-to-end or side-to-side.

F. Patio: Each manufactured dwelling space shall have, adjacent to and parallel to the space, a patio or deck of concrete, brick, stone or wood. The minimum area of such a patio shall be 120 square feet and shall not be less than 8 feet wide in any dimension. The patio shall not be used for the parking of vehicles.

G. Coverage of Manufactured Dwelling Spaces: No manufactured dwelling, excluding its accessory structures, shall occupy more than 40% of the space provided for it. The total area occupied by the mobile home, accessory buildings, and structures on a manufactured dwelling lot shall not exceed 75% of the lot area.

H. Minimum Size and Facilities: No manufactured dwelling shall be permitted to be occupied for residential purposes in a manufactured dwelling park unless it has at least 160 square feet of floor area. Such area shall be determined by measuring the exterior of the manufactured dwelling at the floor level. Such a measurement shall exclude the trailer hitch, steps and similar exterior fittings. Each manufactured dwelling shall have its own water closet, lavatory, and shower or bathtub, all of which shall be connected with drains and running water. Such facilities shall be located in a separate room within the mobile home. Each manufactured dwelling shall also contain a kitchen room or space which shall have hot and cold running water, a sink, and cooking facilities. The sink shall be connected to a drain system.

I. Electrical Connections: No manufactured dwelling shall be permitted in any mobile home park unless such mobile home shall contain integral electric wiring which supplies connection to convenience outlets in each room of the mobile home. If there is no separate kitchen room, at least one convenience electrical outlet shall be located in the kitchen space in addition to outlets in other parts of the room in which the kitchen space is located. Outlets provided in the ceiling or walls and which are intended for lighting purposes shall not be counted as convenience outlets.

J. Foundation or Skirting: No manufactured dwelling shall be permitted in any manufactured dwelling park unless it rests on a continuous foundation or has opaque continuous skirting or non-decaying, non-corroding material extending to the ground. The skirting or foundation shall have provisions for ventilation and access to the space under the unit, for inspections and maintenance of service connections.

K. Storage Area: A storage structure having a gross floor area of at least 60 square feet shall be constructed and completed prior to the occupancy of any manufactured dwelling.

L. Screening of Park: Any manufactured dwelling park established, altered or expanded in accordance with the provisions of this chapter shall be surrounded, except at its entry and exit, by a sight-obscuring fence, landscaping, or hedge not less than six (6) feet in height at maturity. Such fence, landscaping, or hedge shall be maintained in a neat manner.

M. Numbering of Spaces: Each space within a manufactured dwelling park shall be legibly numbered so that it may be easily found by emergency vehicles. A plot plan showing the location of each number space shall be furnished to the Polk County Fire District #1.

N. Fire Safety Facilities:

1. An adequate number of fire hydrants shall be provided within the manufactured dwelling park so that no space or structure within the park is more than 400 feet from a hydrant. Each hydrant shall be located on a roadway within the park and shall conform in design and capacity to the public hydrants in the City. Hydrants within the manufactured dwelling park shall be installed at the expense of the developer of the park.

2. Water supplies for fire protection operations shall be as required by the Polk County Fire District #1.

3. Access to a manufactured dwelling park for fire protection shall be such as to permit fire apparatus to approach within 100 feet of each mobile home.

O. Lighting: Streets and walkways shall be lighted during the hours of darkness. Lighting shall be designed to an average of 0.25 horizontal candle power or light the full length of all roadways and walks within the park boundaries. All lighting within the park shall be installed and maintained at the expense of the owner of the property and shall not be under the control of the mobile home occupant.

P. Landscaping: All open spaces not occupied by structures, manufactured dwelling, or walkways, shall be planted or otherwise landscaped, and shall be properly maintained. Such landscaping shall include at least one tree on each mobile home space within the park. Such trees shall have a height of not less than six (6) feet at maturity. The park area shall be maintained free of dry brush, leaves and weeds which might allow fires to spread between manufactured dwelling and other buildings in the park.

Q. Service Buildings: If a service building is provided, it shall conform to the following:

1. Be located 15 feet or more from any manufactured dwelling space.

2. All park-owned public buildings accessible to park tenants shall be kept in a sanitary condition, in good repair and free of debris and refuse.

3. Shall be provided with listed portable fire extinguisher in accordance with the provision of the NFFA Standard for portable fire extinguisher.

R. Recreational Vehicle Parking Area: Each manufactured dwelling park shall have an area designated for parking and storage of recreational vehicles. Roadways,

vehicular parking areas, patios, and yards shall not be used for long-term parking or storage of trailers, boats, campers, and other recreational vehicles.

The recreational vehicle parking area shall have a surface of asphaltic concrete or a similar paved surface. Each space designated for the parking of recreational vehicles shall have a minimum width of 10 feet, a minimum length of 22 feet, and sufficient area beyond the space to allow the entry and exit of recreational vehicles.

There shall be at least two recreational vehicle parking spaces in the recreation vehicle parking area. In addition, there shall be at least one recreational vehicle parking space for every seven (7) manufactured dwelling spaces in the manufactured dwelling park.

61.030 Siting Mobile Homes

Each manufactured dwelling within a manufactured dwelling park shall be sited in accordance with the following setbacks:

- A. A minimum of 15 feet from any other manufactured dwelling.
- B. A minimum of six (6) feet from any accessory building on any adjoining manufactured dwelling space, except that a double carport or garage may be built which serves two adjacent mobile homes.
- C. When a carport or garage is built to serve two adjacent manufactured dwellings, a minimum 3-foot separation shall be provided between the double carport and any adjacent structure, manufactured dwelling, or manufactured dwelling accessory structure. As an alternative, a one-hour fire separation may be provided through the center of the double carport serving adjacent manufactured dwellings.
- D. A minimum of 10 feet from any property line (excluding the boundaries between mobile home spaces).
- E. A minimum of 15 feet from any public right-of-way.
- F. A minimum of five (5) feet from any common roadway or walkway within the manufactured dwelling park.

61.035 Park Sanitation and Maintenance

- A. General Responsibilities:
 - 1. The owners or operator of a manufactured dwelling park shall maintain the parkgrounds, sewer and water systems to their point of termination on the lot, streets, common walkways and buildings in a safe, sanitary condition.

2. The tenant shall maintain the tenant's lot and utilities from their termination point (lot boundaries defined by agreement between tenant and operator) in a safe, sanitary condition.
- B. No person shall allow the person's pet animal to run at large or to create any health hazard within a manufactured dwelling park.
- C. The area directly under each manufactured dwelling shall be kept free and clean of refuse or other objects that may create a fire hazard or harbor rodents.
- D. Liquid petroleum tanks shall be securely anchored to the chassis of the mobile home. The manifold regulator valve shall be attached to the tank in an approved manner with approved material.
- E. The sewage connection to a manufactured dwelling shall be maintained air and water tight.
- F. All stands shall be designed to prevent standing water under or adjacent to any mobile home.
- G. Refuse containers with fly-tight lids shall be provided by the park owner and maintained in a clean and sanitary condition. Garbage and refuse shall be disposed of in an approved manner to prevent fly, rodent, and health nuisances.

61.040 Additions to Manufactured Dwellings

Carports, cabanas, ramadas, awnings, and all other structures situated upon a mobile home space shall conform to the requirements of the Uniform Building Code.

61.041 Development Standards for Manufactured Homes Located Outside Manufactured Home Parks

Individual manufactured homes, as defined by the ordinance, shall be a permitted use in any zones where single-family dwellings are a permitted use, including but not limited to Single-Family Residential (RS), Medium-Family Residential (RM) and High-Density Residential (RH). The manufactured home shall comply with the following standards:

- A. The manufactured home shall meet all provisions of the Independence City Code and Zoning Code as applicable to other dwellings in the same zone, including but not limited to development standards, architectural requirements and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subject.
- B. The manufactured home shall be multi-sectional, double-wide or wider, and enclose a space of not less than 1,000 square feet.
- C. The manufactured home shall set on continuous footings running the full length of the home. These footings shall be to manufacturer's specifications, but shall be no

less than 18 inches (18") wide by six inches (6") deep with two #4 reinforcing rods installed for the full length of the footing. These footings shall run under the bearing points of the manufactured home and the perimeter skirting. The perimeter skirting shall be constructed of concrete, concrete block, masonry block or brick, and enclose the entire perimeter, with ventilation and access to the manufacturer's specifications. No wood or metal skirting shall be allowed. The perimeter of the home shall be backfilled such that the home is not more than twelve inches (12") above the finished grade.

D. The manufactured home shall have a pitched roof with a nominal pitch of three (3) 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 City Manager or designee. In no case shall the manufactured home shall have unpainted metal siding or unpainted metal roofing.

F. The manufactured home shall have a garage or carport constructed of like materials, unless the detached or attached garages are the predominant construction of immediately surrounding dwellings, in which case the manufactured home shall have a garage rather than a carport. The determination of whether the garage shall be attached or detached shall be made upon the predominant construction of immediately surrounding dwellings.

G. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards specified by state law for single-family dwellings constructed under the state building code.

H. The manufactured home shall not be sited in a historic district or on any land immediately adjacent to a historic landmark.

I. This subsection shall not be construed as abrogating a recorded restrictive covenant.

61.042 RV's Outside of Designated Areas Prohibited; Exceptions

Unless specifically authorized by this chapter, no manufactured home, trailer, recreational vehicle or camper shall be used for cooking, sleeping or living purposes except in a designated recreational vehicle park. Provided, however, that a camper or recreational vehicle may be used for sleeping or living purposes outside of a designated recreational vehicle park for a period not to exceed 15 days, after the owner or occupant thereof has first secured from the City a temporary-stay permit. The permit shall be issued for each vehicle or unit only once in each calendar year.

61.043 Designated Recreational Vehicle Park Standards

The use of recreational vehicles (RV) as temporary or semi-permanent living quarters is allowed in designated areas of manufactured dwelling parks, which shall be subject to the following additional standards:

- A. Minimum area: The space provided for each RV shall be not less than 700 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles other than RVs, and landscaped areas. There shall be at least ten (10) feet between each RV. All RV spaces will have a minimum width of 20 feet.
- B. Vehicle Parking Areas: Each RV space shall provide:
 - 1. Sufficient parking area for one RV vehicle.
 - 2. A minimum of 200 square feet for one additional vehicle. Such parking areas shall have a surface of asphalt, concrete, or suitable prepared rock base with a minimum of 3/4" rock finish, and shall be designed to provide runoff of surface water. A minimum depth of 8" Class II back-fill is required for the rock base, with a minimum depth of 2" Class I 3/4"-0" crushed rock finish. The portion of the space which is not occupied by the recreational vehicle or parking space shall be landscaped or otherwise treated to prevent dust or mud.
- C. Patio: Each RV space shall have, adjacent to and parallel to the RV space, a patio of concrete, brick or stone. The minimum area of such a patio shall be 72 square feet and shall not be less than six (6) feet wide in any dimension. The patio shall not be used for parking of vehicles.
- D. Screening: The boundary between RV spaces and around the designated RV area shall include a sight-obscuring buffer in the form of a hedge, fence or landscaping, not less than six (6) feet at maturity, and not less than 3.5 feet at the time of installation.
- E. Electrical: Each RV space shall be provided with electrical service.
- F. Water and Sewage Disposal: Each RV space shall be provided with piped potable water and sewage disposal service. The park shall provide a waste-water receptacle connected to the sewer system to accommodate RVs which are not so equipped.
- G. Solid Waste Containers: The park shall provide solid waste containers which are durable, rust-resistant, water-tight, rodent-proof and washable with tight-fitting lids, covers or closeable tops. There shall be at least one 60-gallon container for every four RVs. The containers may be grouped, and must be within 300 feet of all RV spaces.

H. Numbering of Spaces: Each space within the designated area shall be legibly numbered in the same manner as required for mobile home parks.

I. Length of Stay: The maximum allowable stay for an RV shall be 270 days in areas designated for RVs. To remain in the RV area of a park for more than 30 days, a RV shall contain at least 10 square feet of interior space, be equipped with plumbing and cooking facilities and be connected to the water and sewer service provided by the park. When an RV has been in place for maximum allowable period, that RV shall not be allowed in the park for a minimum of 14 days thereafter.

J. RV Parking Additional: The designated RV living quarters area shall be in addition to the parking area required under Subsection A above.

K. Other Standards: The designated RV living quarters area shall have lighting, landscaping, fire safety facilities, and roadways in the same manner as the rest of the mobile home parks.

L. Storage: The RV park shall provide at least 100 square feet of locked storage space for each RV space. Said storage space may be grouped and must be within 300 feet of all RV spaces. No storage of any personal property, of any kind, other than a motor vehicle, shall be allowed on any RV space.

M. Sanitary Facilities: One shower shall be provided for each sex for every 20 RV spaces. Flush toilets and lavatories shall be provided in accordance with the following table:

Total Number of RV Spaces	Number of Toilets		Number of Lavatories*	
	Men**	Women	Men	Women
1-15	1	1	1	1
16-30	2	3	2	3
31-60	3	4	3	4
61-100	4	5	4	5

* One additional lavatory shall be provided for each 2 toilets when more than 6 toilets are required.

** Urinals may be acceptable for not more than 1/3 of the toilets required in the men's facilities.

N. The designated area within manufactured dwelling parks which allows the use of recreational vehicles as residences shall not exceed 25% of the total net buildable area of the manufactured dwelling park property.

61.045 Recreation Area

A minimum of 5,000 square feet or 200 square feet per manufactured dwelling space, whichever is greater, shall be provided and maintained by the owner of the manufactured dwelling park for a recreation area for group or community activities. The Planning Commission may require such area to be protected from streets, parking areas, or the like, by a fence or the equivalent. Each such required area shall be maintained in a clean and orderly condition by the owner of the park.

61.050 Play Areas

A separate play area shall be provided in all manufactured dwelling parks that accommodate children under 14 years of age unless each space has a minimum size of 4,000 square feet. Such play area shall be not less than 2,500 square feet of area with at least 100 square feet of play area provided for each manufactured dwelling space occupied by children. In determining whether or not plans should be approved, the city shall require that suitable separations or other safeguards be provided if the play area abuts a railroad, a public street, a sharp declivity or other similar hazard.

61.055 Conformity of Existing Mobile Home Parks

A. Any manufactured dwelling park now existing with the city shall meet the requirements of the following sections and subsections of this ordinance within twelve months from the date of the adoption hereof:

- 61.010C - Utility Connections
- 61.020F - Patio
- 61.020H - Minimum Size and Facilities
- 61.020I - Electric Connections
- 61.020J - Foundation and Skirting
- 61.020M - Numbering of Spaces
- 61.020N - Location of Fire Hydrants
- 61.020O - Lighting
- 61.020P - Landscaping
- 61.020Q - Service Building
- 61.025R - R.V. Spaces
- 61.050 - Play Areas

B. Any manufactured dwelling park now existing within the city shall, within twelve months from the date of adoption of this ordinance, erect a fence, as required by Section 61.020L of this ordinance or as an alternative, shall, within twelve months from the date of adoption of this ordinance, plant a hedge or vegetative screen which shall, within three years from the date thereof, meet the requirements of 61.020L.

C. Within twelve months from the date of the adoption of the ordinance, all interior roadways in existing manufactured dwelling parks shall be paved with asphaltic concrete or concrete in accordance with the provisions of Subsection 61.020D.

D. No manufactured dwelling park may be expanded so as to occupy greater aggregate space or house a greater number of manufactured dwelling or to house larger individual manufactured dwellings without approval from the Planning Commission. A request for expansion will be considered an application for a conditional use for a manufactured dwelling park. The Planning Commission shall not approve any such request for expansion unless the expanded portions shall conform in all particulars to this ordinance.

61.060 Interpretation of this Ordinance

This ordinance is intended to establish the minimum requirements for manufactured dwelling parks within the City. The Planning Commission shall, in considering an application for a conditional use permit for manufactured dwelling parks, consider the effects of the manufactured dwelling park upon the surrounding area, upon the utility systems of the city, and upon the streets and traffic volumes within the city.

61.065 Applicability of Other Laws

In addition to the rules set forth in this chapter, manufactured dwelling park owners, operators and tenants shall comply with all other federal, state, or local ordinances, statutes, rules and regulations pertaining to mobile homes.

61.070 Buffer Strip

Any portion of a manufactured dwelling park which is within 50 feet of a railroad, a general industrial area, or a commercial area shall be provided with a landscaped buffer strip designed to protect residents of the park from noise, glare, or other noxious occurrences. The buffer strip shall be at least 20 feet in depth and shall be fenced, planted, and/or bermed to meet the intent of this section. City approval of maintenance provisions shall be required.

SUBCHAPTER 62

MANUFACTURED DWELLING SUBDIVISION REGULATIONS

62.010 Compliance Required

Except as modified by this ordinance, manufactured dwelling subdivisions shall comply with the provisions of Chapter 90 of the Independence City Code, the Land Division Ordinance, and the Zoning Ordinance.

62.020 Code Conformance

Mobile homes in manufactured dwelling subdivisions shall conform in all respects to local, state, and federal requirements in effect at the time of their installation.

62.030 Permitted Locations

Manufactured dwelling subdivisions are conditional uses in the Medium Density Residential (RM) Zone and High Density Residential (RH) Zone pursuant to Subchapters 21 and 22 of the Independence Zoning Code.

62.040 Application and Processing

Manufactured dwelling subdivisions shall be subject to the same provisions of Chapter 90 of the Independence City Code as conventional residential subdivisions in terms of application and processing, except the tentative plan shall include the following additional information:

- A. The approximate location and orientation of each manufactured dwelling stand on each lot and the approximate dimensions of the maximum sized mobile home and accompanying carport or garage that can be sited on the lot while still meeting all setback requirements set forth in Subchapter 61 of the Independence Zoning Code.
- B. The approximate location of any manufactured dwelling accessory structure, carport, or garage on a mobile home lot.

62.050 Dwelling Types Restricted

Unless approved as part of a planned development pursuant to Subchapter 60 of the Independence Zoning Code, only manufactured dwellings shall be permitted in manufactured dwelling subdivisions.

62.060 Minimum Lots

The minimum number of lots allowed in a manufactured dwelling subdivision shall be ten contiguous lots developed solely for manufactured dwelling use.

62.070 Buffer Strip

Any portion of a manufactured dwelling subdivision which is within 50 feet of a railroad, a general industrial area, or a commercial area shall be provided with a landscaped buffer strip designed to protect residents of the subdivision from noise, glare, or other noxious occurrences. The buffer strip shall be at least 20 feet in depth and shall be fenced, planted, and/or bermed to meet the intent of this section. City approval of maintenance provisions shall be required.

SUBCHAPTER 70

VARIANCES

70.005 Power to Grant Variances

The Planning Commission shall have the power to vary or modify the requirements of this ordinance. The power to grant such variances shall be used sparingly and only according to the provision of this ordinance.

70.010 Procedures

A variance is a land-use action. The procedures governing a request for a variance shall be those set forth in Chapter 11 of this ordinance, "Land-Use Actions".

70.012 Administrative Variances

- A. The purpose of this section is to allow for City Manager or designee review of certain minor variances which are limited in scope and which are unlikely to have impacts beyond the property on which they are located.
- B. Administrative Variances may be granted for relief from any dimensional development standard in the Zoning Ordinance, but such relief shall not exceed twenty (20) percent of the specified requirement.
- C. Procedure and Standards. An application and site plan shall be filed pursuant to Subchapter 11 of the Zoning Ordinance. In reviewing the request, the City Manager or designee shall find that:
1. Granting the variance will not have a detrimental affect on uses and development on adjacent properties;
 2. The variance is made necessary, due to natural or physical constraints of the building site; and,
 3. The variance is consistent with the Comprehensive Plan designation and the purpose and intent of the applicable Zoning District.
- D. A determination by the City Manager or designee regarding such a variance request shall be considered a ministerial (Type I) action as prescribed by Section 11.015(D) of the Zoning Ordinance. Notice of the decision shall be provided as required by Section 11.015(D).
- E. Appeal of an administrative variance decision shall be made to the Planning Commission as prescribed in Section 11.015(D) of the Zoning Ordinance.

70.015 Standards for Granting Certain Variances

The Planning Commission may permit and authorize a variance from any dimensional development standard in the Zoning Ordinance, where such relief shall exceed twenty (20) percent of the specified requirement if the Commission finds that the variance would meet all of the following standards:

- A. Exceptional or extraordinary circumstances or conditions apply to the property which do not apply generally to other properties in the same zone or vicinity; and result from lot size or shape, legally existing prior to the date of this Ordinance, topography, or other circumstances that substantially exist.
- B. The practical difficulties resulting to the applicant for the variance have not been caused by the applicant or previous property owner.
- C. That the special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Ordinance by the applicant or previous property owner.
- D. The variance will be consistent with the Comprehensive Plan and with the purpose of the zoning in which the applicant's property is located.
- E. Varying the requirements of the zoning ordinance will be of greater benefit to the public than would enforcement of the requirements of the zoning ordinance.

70.020 Standards for Granting Other Variances

Any provision of this ordinance, that is not a dimensional development standard, may be varied if the Planning Commission finds that the variance would meet all of the following standards:

- A. The requirements of the zoning ordinance prevent the applicant for the variance from making any substantial, beneficial use of the applicant's property.
- B. The condition which prevents or will prevent the applicant from making any substantial, beneficial use of the property is a condition peculiar to the applicant's property and not found generally in other property in the zone.
- C. The condition which prevents the applicant from making substantial, beneficial use of the property was not caused by the applicant or previous property owner.
- D. The variance will be consistent with the Comprehensive Plan and with the purpose of the zone in which the applicant's property is located.
- E. Varying the requirements of the zoning ordinance will be of greater benefit to the public than would enforcement of the requirements of the zoning ordinance.

70.021 Standards for Reducing the Minimum Lot Size to 4,500 Square Feet in Hill's Addition

Existing lots in Hill's Addition in the City of Independence may be reduced to no less than 4,500 square feet if the Planning Commission finds that the variance would meet all of the following standards:

- A. Any new lot created under the provisions of this Subsection must have a minimum frontage on a public street of 15' to allow for a driveway access, mail delivery and street address for police and emergency services.
- B. The variance will be consistent with the Comprehensive Plan and with the purpose of the zoning in which the applicant's property is located.
- C. Varying the requirements of the zoning ordinance will be of greater benefit to the public than would enforcement of the requirements of the zoning ordinance.
- D. Granting the variance will not be materially detrimental to the public welfare or to improvements or residents in the neighborhood of the subject property, including considerations of public fire and life safety protection.
- E. For properties located within the National Historic District, granting of the variance will result in a lot, which maintains any unifying development patterns such as sidewalk and street tree location, setbacks, building coverage and orientation to the street.

70.025 Limiting Variances

In granting any variance under the provisions of this chapter, the Planning Commission may impose conditions. Such conditions shall include, but not be limited to, limitations on the duration of the variance, restrictions on the dimensions of structures, and conditions regarding the location of structures. Such conditions shall apply to the applicant for such a variance and to any purchasers, renters, lessees, or subsequent owners of the subject property. A violation of such conditions shall constitute a violation of this ordinance.

70.030 Effective Date of the Variance

A variance granted by the Planning Commission under the provisions of this ordinance shall become effective 12 days after the mailing of notice of the Planning Commission's action unless such action is appealed to the City Council. An appeal of the Planning Commission's decision shall stay such action until the appeal has been heard by the city Council.

70.035 Exercise of Variance

A variance granted under the provisions of this ordinance shall be effective only if exercised within 180 days of the effective date. Failure to exercise the variance within 180 days of the effective date renders the variance void. Extensions of this time period may be granted by a majority vote of the Planning Commission. Such extensions shall not exceed 180 days.

Requests for such extensions shall be submitted in writing to the City Manager at least 30 days prior to the expiration of the effective period of the variance.

70.040 Cessation of a Variance

The discontinuance of any activity authorized by a variance for a continuous period exceeding 180 days shall be deemed an abandonment of such variance. The property affected by the variance shall thereafter be subject to all of the applicable provisions and requirements of this ordinance.

70.045 Transfer of a Variance

Any variance granted to a property owner under the provisions of this ordinance is transferable to subsequent owners of the same property unless otherwise provided at the time of the granting of the variance.

SUBCHAPTER 71

CONDITIONAL USES

71.005 Power to Grant Conditional Uses

The Planning Commission shall have the power to grant conditional uses listed in this ordinance.

71.010 Procedures

A conditional use is a land-use action. The procedures governing a request for a conditional use shall be those set forth in Chapter 11 of this ordinance, "Land-Use Actions".

71.015 Conditions for Granting a Conditional Use

A conditional use may be granted only if the following conditions are found to exist:

- A. The conditional use that is requested is listed as a conditional use in the zone in which the subject property is located.
- B. Granting of the conditional use will not be materially detrimental to the public welfare or to improvements or residents in the neighborhood of the subject property.
- C. Granting of the conditional use will be consistent with the purpose of the zone in which the subject property is located and with the applicable Comprehensive Plan designation and policies.

71.020 Limiting Conditional Uses

In granting a conditional use, the Planning Commission may impose conditions. Such conditions shall include, but not be limited to, limitations on the duration of the conditional use, restrictions on the dimensions of structures, and restrictions regarding the location of structures. Such conditions shall apply to the applicant for the conditional use and to any purchasers, renters, lessees, or subsequent owners of the subject property. A violation of such conditions shall constitute a violation of this ordinance.

71.025 Effective Date of Conditional Use

A conditional use granted by the Planning Commission under the provisions of this ordinance shall become effective 12 days after the mailing of notice of the Planning Commission's action unless such action is appealed to the City Council. An appeal of the Planning Commission's decision shall stay such action until the appeal has been heard by the City Council.

71.030 Exercise of a Conditional Use

A conditional use granted under the provisions of this ordinance shall be effective only if exercised within 180 days of the effective date. Failure to exercise the conditional use within 180 days of the effective date renders the conditional use void. Extensions of this time period may be granted by a majority vote of the Planning Commission. Such extensions shall not exceed 180 days. Requests for such extensions shall be submitted in writing to the City Manager at least 30 days prior to the expiration of the effective period of the conditional use.

71.035 Cessation of a Conditional Use

The discontinuance of any activity authorized by a conditional use for a continuous period exceeding 180 days shall be deemed an abandonment of such conditional use. The property affected by the conditional use shall thereafter be subject to all of the applicable provisions and requirements of this ordinance.

71.040 Transfer of a Conditional Use

Any conditional use granted to property owner under the provisions of this ordinance is transferable to subsequent owners of the same property unless otherwise provided at the time of the granting of the conditional use.

71.045 Expansion of a Conditional Use

Any conditional use granted under the provisions of this ordinance shall be granted only for the use or activity as described in the application for the conditional use or as prescribed by the Planning Commission. The enlargement or alteration of a conditional use beyond this size, area, or intensity described in the application or prescribed by the Planning Commission shall be considered a conditional use and shall be subject to all of the provisions of this chapter.

SUBCHAPTER 72

HOME OCCUPATIONS

72.005 Purpose

The purpose of this chapter is to set forth standards and requirements for conduct of home occupations. The intent of this chapter is to allow, within RS, RM and RH residential zones, certain activities which are commercial in nature, but which are incidental, subordinate and secondary to the residential use and which are compatible with other residential activities within the neighborhood. Home occupations are also allowed in CO, CH, and CR commercial zones, but those uses are not subject to the provisions of this chapter.

72.008 Application of Standards

- A. A determination by the City Manager or designee regarding a home occupation request shall be considered a ministerial (Type I) action as prescribed by Section 11.015(D) of the Zoning Ordinance. Notice of the decision shall be provided as required by Section 11.015(D).
- B. Appeal of an home occupation decision shall be made to the Planning Commission as prescribed in Section 11.015(D) of the Zoning Ordinance.

72.010 Home Occupation Standards

A home occupation may be any occupation or profession which can be carried on by a member of the family or person residing on the premises, provided that all of the following conditions are met:

- A. All signs shall comply with the requirements of the Independence Sign Code - Subchapter 58.
- B. There is no display that will indicate from the exterior that the building is being used for any purpose other than residential.
- C. There is no outside storage of materials.
- D. There are no outside non-resident employees paid or unpaid.
- E. A home occupation may be conducted in an accessory building. No more than 500 square feet of floor area within any one or combination of accessory buildings shall be devoted to a home occupation.
- F. No dwelling shall be modified to accommodate a home occupation in such a way as to alter the residential appearance of the dwelling or to render its appearance incompatible with the neighboring residential buildings.

G. No home occupation shall be used as an assembly point for employees or assistants to be dispersed or assigned to other locations.

H. There shall be no more than three (3) commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries between the hours of 8 p.m. to 8 a.m.

I. Except for bed and breakfast establishments, there shall be no more than one (1) client's or customer's vehicle at any one time and no more than eight (8) per day at the home occupation site.

J. One commercially-licensed vehicle associated with the home occupation is allowed is allowed at the home occupation site daily. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.

K. The home occupation can be conducted in a safe and healthful manner and not create unusual fire or safety hazards, potential health problems or be in violation of any federal, state or local law or ordinance.

L. The home occupation does not create any nuisance conditions as defined by the City's nuisance ordinance.

72.012 Prohibited Home Occupation Uses:

A. Any activity that produces radio or TV interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that can be detected beyond the property lines is prohibited.

B. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music by a music teacher or the sale of computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to all other provisions of this chapter.

C. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:

1. Ambulance service;
2. Animal hospital, veterinary services, kennels, animal boarding;
3. Auto and other vehicle repair; and
4. Repair, conditioning, or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site.

72.015 Home Occupation Complaint and Enforcement Procedures

A. A complaint by members of the public, city staff, elected or appointed officials regarding conditions A through L in Section 72.010 shall be investigated by the City Manager's designee. The designee shall notify the resident of the results of the investigation by certified letter. If a violation has been found, the resident shall be given seven days to correct the violation. If not corrected, the designee shall bring the matter before the Planning Commission for review in accordance with the provisions of Subchapter 11 of the zoning code.

B. Two or more complaints received within 60 days shall be reviewed by the Planning Commission. Said complaints shall be in writing and shall set forth the nature of the objection. Such complaints shall be investigated by the City Manager's designee and the results of the investigation reported to the Commission. The Planning Commission shall hear the matter in accordance with the provisions of Subchapter 11 of the Zoning Code.

C. The City Manager or designee may visit and inspect the site of home occupations in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours and with reasonable notice. Code violations shall be processed in accordance with Section 10.070.

SUBCHAPTER 73

PARKING

73.005 Parking Areas Required

Any building constructed, enlarged, altered or subject to a change of use shall establish and maintain parking areas in accordance with the provisions of this chapter.

73.010 Required Number of Parking Spaces

The number of parking spaces required for any building or land use shall be determined from the following table:

A. RESIDENTIAL USES:	<u>NUMBER OF SPACES REQUIRED</u>
1. Single-family dwelling	2
2. Two-family dwelling (duplex)	4
3. Multi-family dwellings	
a. Studio units or 1-bedroom units less than 500 sq. feet in size	1 per unit
b. 1-bedroom units 500 sq. feet in size or larger	2 per unit
c. 2-bedroom units	2 per unit
d. 3-bedroom or greater units	2 per unit
e. Retirement complexes for persons 55 years or greater	1.75 per unit
f. Accessory dwelling	1
4. Quad dwelling	4 spaces per each unit
5. Quint dwelling	5 spaces per each unit
6. Rooming or boarding house	4 spaces for every 5 guest facilities, plus one space for the owner or manager.
B. COMMERCIAL LODGING	<u>NUMBER OF SPACES REQUIRED</u>
1. Hotel; Motel	One space per each guest rooms, plus one space per two employees.
2. Club; lodge	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.

C. INSTITUTIONS:	<u>NUMBER OF SPACES REQUIRED</u>
1. Welfare or correctional institution	One space per five beds for patients or inmates.
2. Convalescent hospital, nursing home, sanitarium, rest home, home for the aged.	One space per two beds for patients or residents.
3. Hospital	Two spaces per patient bed.
4. Child care facilities	One space per two employees; a minimum of two spaces is required.

D. PLACES OF PUBLIC ASSEMBLY	<u>NUMBER OF SPACES REQUIRED</u>
1. Church	One space per four seats or eight feet of bench length in the main auditorium.
2. Library; reading room	One space per 400 square feet of floor area, plus one space per two employees.
3. Pre-school nursery; kindergarten	Two spaces per teacher.
4. Elementary or Junior High school	One and one-half spaces per classroom, plus one space per administrative employee.
5. High School	One and one-half spaces per classroom, plus one space per administrative employee, plus one space for each six students.
6. College; commercial school for adults	One and one-half spaces per in classrooms, plus one space per five students the school is designed to accommodate.
7. Other auditoriums; meeting room	One space per four seats or eight feet of bench length.
8. Place of public assembly without fixed seats	One space per 100 square feet.

E. COMMERCIAL AMUSEMENTS

NUMBER OF SPACES REQUIRED

- | | |
|-----------------------------|--|
| 1. Stadium, arena, theater | One space per four seats or eight feet of bench length. |
| 2. Bowling alley | Five spaces per alley, plus one space per two employees. |
| 3. Dance hall, skating rink | One space per 100 square feet of floor area, plus one space per two employees. |

F. COMMERCIAL

NUMBER OF SPACES REQUIRED

- | | |
|--|--|
| 1. Retail store except as provided for service or repair shops below | One space per 350 square feet of gross floor area. |
| 2. Service or repair shop; retail store handling exclusively bulky merchandise such as automobiles and furniture | One space per 400 square feet of gross floor area. |
| 3. Bank, office (except medical and dental) | One space per 400 square feet of gross floor area. |
| 4. Medical and dental clinic | One space per 350 square feet of floor area. |
| 5. Eating or drinking establishment | One space per 100 square feet of gross floor area. |
| 6. Mortuary | One space per four seats or eight feet of bench length in chapels. |

G. INDUSTRIAL

NUMBER OF SPACES REQUIRED

- | | |
|--|--|
| 1. Industrial uses, except warehousing. | One space per 700 square feet gross floor area. |
| 2. Warehousing | One space per 1,000 square feet of gross floor area. |
| 3. Public utilities (gas, water, telephone, etc) not including business offices. | One space per two employees on the largest shift, plus one space per company vehicle; a minimum of two spaces is required. |

H. OTHER

The number of parking spaces required for buildings and uses not specifically listed in this section shall be determined by the Planning Commission.

73.015 Loading Space

- A. Any building constructed, enlarged, altered, or subject to change of use in order to accommodate a commercial activity shall establish and maintain one or more loading spaces for commercial vehicles in accordance with the provisions of this chapter.
- B. Each required loading space shall have a minimum width of 10 feet.
- C. Each required loading space shall have a minimum length of 22 feet.
- D. Each required loading space shall have access to a street or alley.
- E. Each required loading space shall have a surface of asphaltic concrete, Portland cement, or similar paving material.
- F. Number of loading spaces required:
 - 1. Each commercial building having a gross floor area of 4,000 square feet or less shall have at least one loading space.
 - 2. Each commercial building having a gross floor area greater than 4,000 square feet shall have at least two loading spaces.

73.020 General Requirements for Parking and Loading Areas

- A. Parking spaces and maneuvering areas shall be designed as depicted in the diagrams and tables in Section 73.035 below.
- B. Any private or public parking area shall be surfaced with asphaltic concrete, or an equivalent paved surface, and shall be adequately graded and drained as required by the City. Appropriate bumper guards or wheel barriers shall be installed 2.5 feet from a required yard or from a property line and 4.5 feet from any structure excluding a private garage.
- C. A public parking area located in any residential district or adjacent to any residential use shall be enclosed with an ornamental fence, masonry wall, or compact evergreen hedge having a height of not less than 2 feet and maintained in good condition and shall observe the required front, side, or rear yard setbacks.
- D. Lighting of parking and loading areas shall be directed entirely onto the lading or parking area, shall be deflected away from any residential use and shall not cast a glare or reflection onto any public street.
- E. The provision and maintenance of off-street parking and loading space shall be continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking or loading space. The subsequent use of the property for

which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance.

F. No owner or occupant of a lot or building shall change the use to which the lot or building is put, thereby increasing parking or loading requirements, until the required increase in off-street parking or loading is provided.

G. Each off-street parking space for a dwelling shall be located on the same lot with the dwelling. Other required parking space shall be located no farther than 300 feet from the building or use that it is to serve, measured in a straight line from the building or use.

H. Each required automobile parking space shall have access to a street or alley.

I. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.

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

73.025 Parking of Bicycles

A. All parking lots for public, commercial, or industrial uses shall provide a minimum of one bicycle parking space for every 10 vehicle parking spaces.

B. Any apartment, dormitory, fraternity, sorority, student home, or other multiple-family residential structure having more than ~~six~~ four dwelling units or more than 12 residents shall provide a parking area for bicycles. The parking area shall be adequate to hold and permit the locking of one bicycle for every two dwelling units in the building or one bicycle for every four persons residing in the building, whichever requirement is less.

C. Bicycle parking areas shall include the following:

1. A sheltered area having direct access to an adjacent sidewalk or parking area. The bicycle parking areas need not be fully enclosed, but shall provide shelter from precipitation.

2. A parking surface of asphaltic concrete, Portland cement, or similar hard-surface paving material.

3. Racks, frames, posts, or other devices of metal, concrete, wood, or other durable material.

D. The requirements of Section 73.025 do not apply to single family, two-family, and three-family housing (attached, detached, or manufactured housing), home occupations, agriculture and livestock uses, or other developments with less than 10 vehicle parking spaces.

73.030 Areas Exempt from Certain Parking Requirements

Sections 73.010, 73.015 and 73.020 shall not apply to changes of use in existing commercial structures or any new commercial structure of less than 6,000 gross square feet of floor area lying within the area bounded on the north by the south side of "C" Street, on the east by a line of 100 feet east of Main Street, on the south by the north side of "D" Street and on the west by the east side of Second Street. Such commercial structures shall comply with all other applicable requirements of this chapter.

73.035 Parking Standards

Parking Angle Degree a	Stall Width b	Stall to Curb (20' Long and 14.5' Short) c	Aisle Width d	Curb Length e	Front of Stall to Front of Stall f	Overlap Front of Stall/Front of Stall g
0	* 9'0"	9.0	12.0	14	30.0	
	* 9'0"	13.4	11.0	16.7	37.8	32.4
20	10'0"	16.4	11.0	22.2	43.8	34.0
30	* 9'0"	15.0	11.0	17.1	41.0	37.8
	10'0"	18.7	11.0	22.3	48.4	39.7
40	* 9'0"	16.2	12.0	16.9	44.4	43.3
	10'0"	20.5	12.0	21.7	53.0	45.4
45	* 9'0"	16.6	13.0	16.6	46.2	46.2
	10'0"	21.2	13.0	21.2	55.4	48.4
50	* 9'0"	16.9	15.03	16.2	48.8	49.9
	10'0"	21.7	15.0	20.5	58.4	52.1
60	* 9'0"	17.1	18.0	15.0	52.2	55.4
	10'0"	22.3	18.0	15.7	62.6	57.6
70	* 9'0"	16.7	19.0	13.4	52.4	57.8
	10'0"	22.2	18.0	16.2	62.4	59.0
80	* 9'0"	15.8	24.0	11.4	55.6	63.0
	10'0"	21.4	24.0	13.3	66.8	65.1
90	* 9'0"	14.5	24.0	9.0	53.0	
	10'0"	20.0	24.0	10.0	64.0	

Notes:

Small car spaces may be provided on the following basis:

- 10 or more total spaces required 20% of total.
- 3-9 total spaces required 2 spaces.
- 4-7 total spaces required 1 space.
- 1-3 total spaces required 0 spaces.

-Spaces shall be identified by a sign "Small Car Only" and painted on pavement for two-way circulation, the minimum aisle width shall be 20', adequate ingress, egress and turnaround space shall be paved.

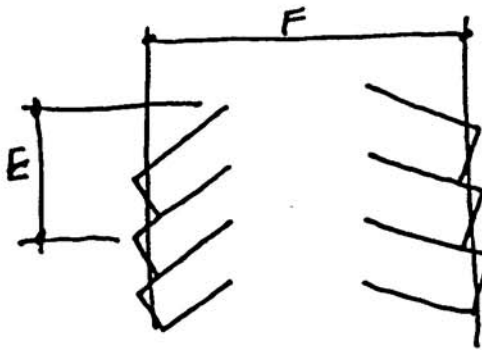
-No portion of a parking space or aisle shall be located in a required landscaped yard.

-The minimum driveway length between a dwelling and the edge of the sidewalk shall be 20 feet.

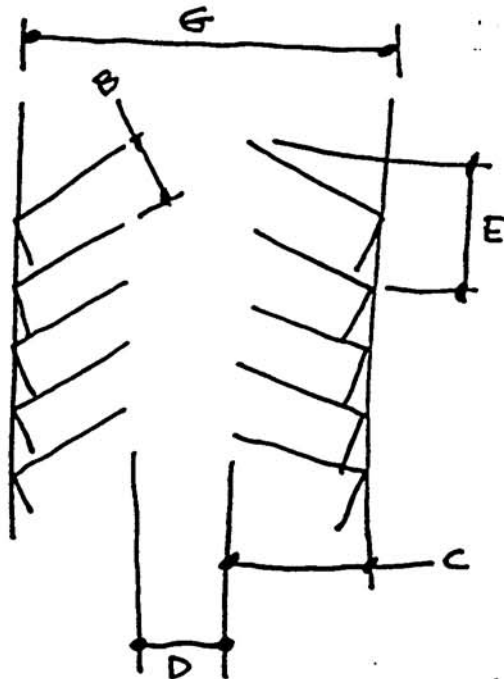
73.040 Access To State Highways.

Access to State Highways is granted by the Oregon Department of Transportation (ODOT).

A change of use to which the lot or building is put may require amending an existing highway approach permit.



OVERLAP
FRONT
DESIGN



TYP. DIMENSIONS

(SEE SCHEDULE UNDER 73.035
"PARKING STANDARDS")

SUBCHAPTER 74

ACCESSORY STRUCTURES

74.005 General Provisions Regarding Accessory Uses

Accessory uses, including accessory dwelling units, shall comply with all requirements for the principal use except those specifically modified by this ordinance and shall comply with the following limitations:

A. Attached Accessory Buildings. Any accessory building attached to the main building shall be considered a part of the main building and shall be subject to the same requirements as the main building. Accessory structures shall be considered as being attached to the main building when any portion of the accessory structure is located within four (4) feet of the main building.

B. Detached Accessory Buildings. In the RS, RM, RH and CO zones, detached accessory structures shall not exceed two in number; shall not exceed one story in height; and shall not cover more than 25% of the total area of any lot.

Accessory structures not attached to the main building located in an interior side yard shall be set back at least five (5) feet from any lot line.

Within interior rear yards and portions of rear yards not abutting a street, an accessory structure may be placed on the property line except along an alley; all structures except fences shall be at least one (1) foot from the alley. Note: The Building Code may require a setback from the property line.

In all other zones, accessory structures may occupy no more than 25% of the required yard and must meet the same setback requirements of the zone in which the property is located.

C. Fences.

1. All fences which are located within vision clearance areas at street and alley intersections shall not exceed 3-1/2 feet in height from the adjacent curb elevation and shall be constructed of a material which is non sight-obscuring. Fences enclosing residential uses shall not exceed a height of seven (7) feet. Fences enclosing commercial or industrial uses, for which there is no height limitation, must be at least eight (8) feet high if topped with barbed wire or other injurious material.

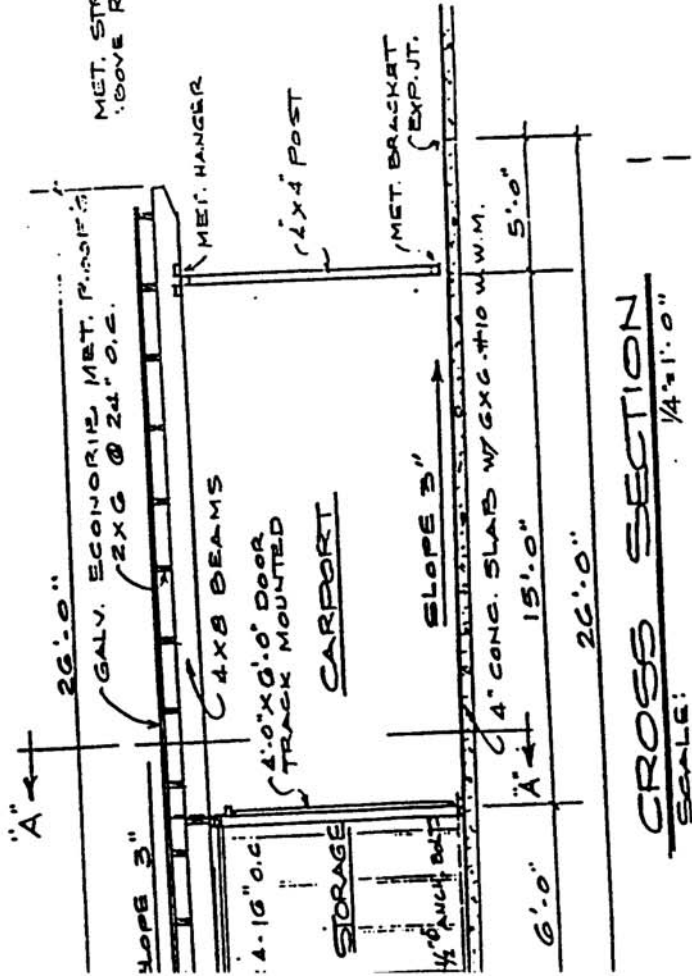
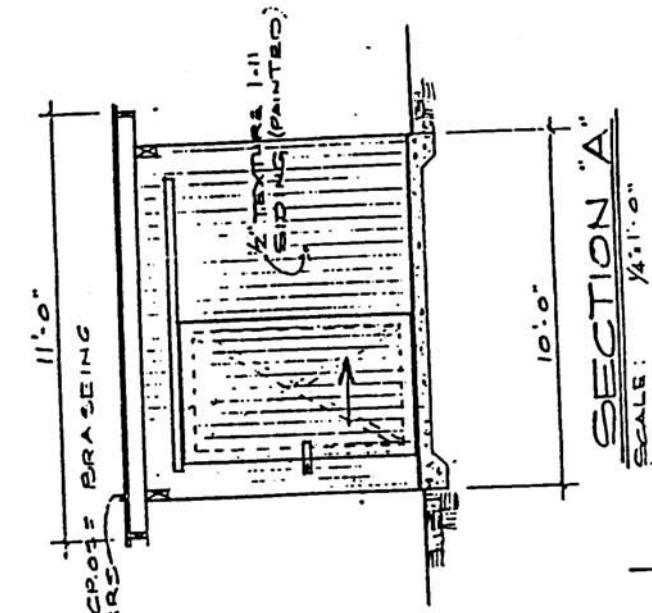
2. All fences shall be constructed of such material as to be compatible with the surrounding area. No sheet metal, metal roofing, plywood, broken or splintered material, pallets, barbed wire, pig wire, woven wire or farm fence wire shall be used. Stained or discolored fence material shall be painted. All fencing shall be constructed so that the finished side shall face outward. All

fences shall be maintained so as to be in an upright, self-standing condition and repaired with the same or similar materials used in the existing fence.

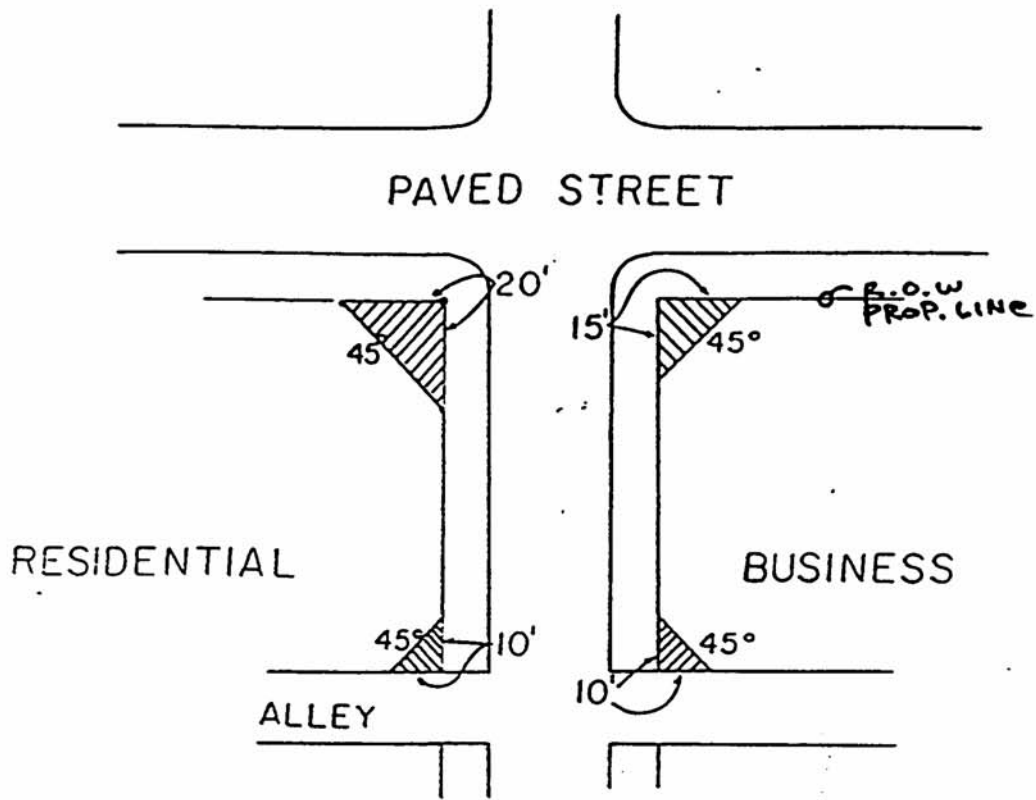
(3) Construction of fences shall meet all State and local codes. Fees and plans showing the location, materials and design of all fences shall be submitted to the city for a permit prior to construction.

D. Swimming Pools. A swimming pool may be located within a required rear yard or side yard provided that the pool meets the setback requirements for the zone in which the pool is located. Any pool installed shall be protected against accidental entry by a fence not less than 48" in height with a self-closing, self-locking gate not less than 48" from the edge of the pool.

E. Accessory Structures in Front Yards and Near Streets. No accessory structure exceeding 2 feet in height, except a fence, shall be permitted in a required front yard. No accessory structure exceeding 2 feet in height, except a fence, shall be located within 10 feet of any street as defined in this ordinance.



PLANTING and FENCE RESTRICTIONS



SET BACKS

RESIDENTIAL	- 20'
BUSINESS	- 15'
ALLEYS	- 10'

VISION CLEARANCE

MIN.- MAX. HGT. REQUIREMENTS

RESIDENTIAL	- $\leq 42''$
BUSINESS	- $\leq 42''$ or $\geq 10'$

 - VISION CLEARANCE AREA

SUBCHAPTER 75

GENERAL DEVELOPMENT STANDARDS

75.005 Minimum Area of Lots

No lot or parcel shall be divided or reduced in area in such a way as to violate the minimum area and width requirements of the zone in which the lot or parcel is located. No nonconforming lot of record shall be divided or reduced in area in such a way as to violate further the area and width requirements of the zone in which the lot or parcel is located.

75.010 Required Yard Areas not to be Divided

No portion of a lot or parcel necessary to provide the lot area or density of dwelling units required by the zone or plan designation in which that lot or parcel is located shall be divided or reduced in area. No yard, landscaped area, open space, or common area required by this ordinance shall be reduced in area or divided from the lot or parcel for which it is required.

75.015 Yards Apply to Only One Main Building

No yard, landscaped areas, open space, or common area required for a lot or a main building shall be counted as meeting the yard, open space, or area requirements of another lot or building.

75.020 Yards to be Unobstructed

Every required front, side, and rear yard shall be open and unobstructed by buildings or structures from the ground to the sky except for those projections and accessory structures permitted by this ordinance. Objects and materials such as firewood, building supplies, campers, boats, and vehicles which are stored for a period exceeding 30 consecutive days in one calendar year shall be subject to the yard requirements of this ordinance.

75.025 Parking in Required Yards

No parking of an automobile, truck, camper, boat, trailer, or other vehicle shall be allowed within 15 feet of any street, except in a driveway. No parking shall be allowed within any required landscaped area or common area. No driveway or required yard adjacent to a street shall be used for the permanent storage of any trailer, camper, or boat.

75.030 Average Setback from Street

A. Every building in a residential zone shall be set back from the front lot line at least 15 feet, except where the average setback of other buildings on the same side of the street is less than 15 feet.

B. The average setback shall be found by measuring the distance from the front lot line to the closest part of the foundation for all dwellings which are within 200

feet of the subject property and which adjoin the same side of the street as that abutting the subject property. Buildings closer than 10 feet or farther than 20 feet from the front lot line shall not be counted in determining average setback.

C. When other sections of this ordinance or any other ordinance require a greater setback than is specified in this section.

75.035 Projections into Required Front Yards

The following projections and structures may project or extend into a required front yard:

- A. Planter boxes;
- B. Chimneys and flues;
- C. Steps;
- D. Cornices;
- E. Eaves;
- F. Gutters;
- G. Belt courses;
- H. Headers;
- I. Sills;
- J. Pilasters;
- K. Lintels;
- L. Other ornamental features not extending more than 24 inches from the main building;
- M. Uncovered porches;
- N. Covered, but unenclosed porches not more than 15 feet above grade and the floors of which are not more than 4 feet above grade.

In no case shall any of the above projections or structures come closer than 10 feet from the front lot line.

75.040 Projections into Required Side Yards

- A. Cornices, eaves, gutters, and fire escapes may project into a required side yard not more than one-half of the width of the side yard or more than 3 feet, whichever is less.
- B. Chimneys, flues, belt courses, leaders, sill, pilasters, lintels, and ornamental features may project not more than 1½ feet into a required side yard.
- C. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the side yard property line provided they are less than 2 feet in height from ground level.

75.045 Projections into Required Rear Yards

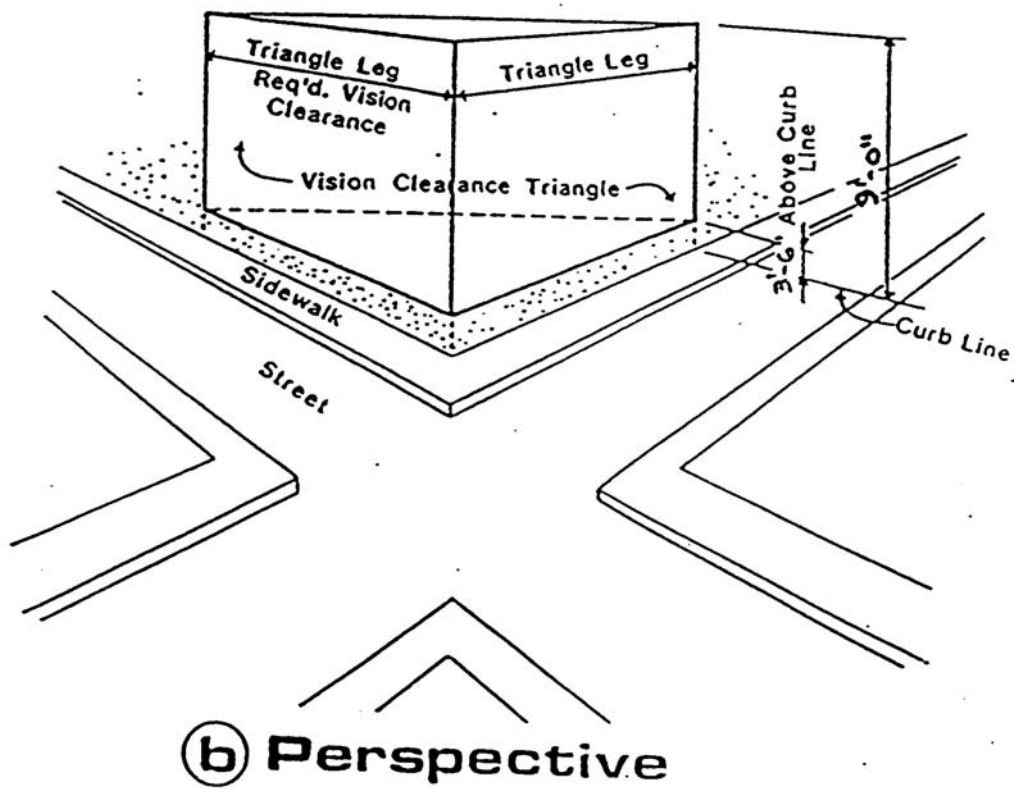
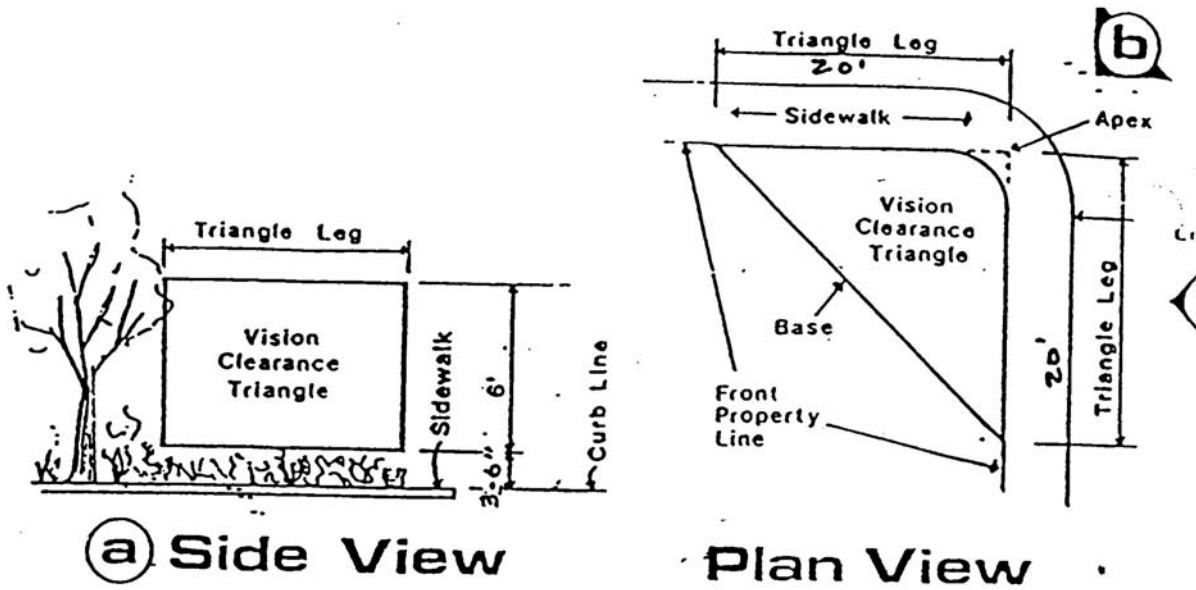
- A. Cornices, eaves, gutters, fire escapes, outside stairways or other unenclosed, unroofed projections may extend into a required rear yard a maximum distance of 5 feet.
- B. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters, and other ornamental features may project not more than 1½ feet into a required rear yard.
- C. Uncovered patios, porches, and decks attached to the main building and having a height of 2 feet or less may extend to the rear property line.

75.050 Projections Above Required Heights

Towers, chimneys, steeples, electronic communication antennae, and similar projections from the roof of a main building may exceed the height requirements of the zone in which they are located. Such projections shall not contain any habitable space and shall not exceed a total height above ground for 50 feet in any residential zone, or 85 feet in other zone.

75.055 Vision Clearance

Vision clearance, as defined in this ordinance, shall be provided in accordance with the following diagram:



75.060 Zero Side Yard Setback

Zero side yard townhouse units authorized in approved subdivisions or Planned Unit Developments shall meet the following use and development standards:

- A. Number of attached units. The number of townhouse units constructed as an adjoining structure shall not be less than four (4) nor more than six (6) dwelling units, each on a lot held in separate ownership. More than one such structure may be allowed per subdivision or planned unit development.

- B. Yards adjacent to a street. This Section does not relieve the requirements of this Ordinance for yards adjacent to a street.

- C. Maintenance easement. As a condition of issuance of a permit for any building having an exterior wall contiguous to a property line, the applicant shall furnish an easement from the owner of the property adjacent to said wall providing for ingress, egress, and use of such adjacent property for the purpose of maintaining, repairing, and replacing the building. Said easement shall be appurtenant to the property on which the building is located and shall be approved as to form by the City Attorney and shall be recorded with ~~Marion~~ Polk* County prior to issuance of the permit.

**Correction: Scrivenor's error*

SUBCHAPTER 76

AIRPORT DEVELOPMENT DISTRICT

76.005 Purpose

The Airport Development District is intended to accommodate the facilities necessary for general aviation purposes and to minimize potential dangers from, and conflicts with, the use of aircraft at the Independence State Airport. The purpose of the District is to encourage and support the continued operation and vitality of Independence State Airport by allowing certain airport-related commercial and recreational uses in accordance with state law.

76.010 Definitions

- A. AIRCRAFT includes airplanes and helicopters, but not hot air balloons or ultralights.
- AB. AIRPORT means the Independence State Airport.
- BC. AIRPORT ELEVATION means the highest point of an airport's usable landing area measured in feet from sea level. This is 175 feet above mean sea level for the Independence Airport.
- D. AIRPORT SPONSOR. The owner, manager, person or entity designated to represent the interests of an airport.
- C. HAZARD TO AIR NAVIGATION means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- D. HEIGHT is for the purpose of determining the height limits in all zones set forth in this ordinance and shown on the Airport Development District map, the datum shall be mean sea level elevation unless otherwise specified.
- E. OBSTRUCTION is any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section .030 of this ordinance.
- F. RUNWAY is a defined area on the airport prepared for landing and takeoff of aircraft along its length.
- G. TREE means any object of natural growth.

76.015 Airport Zones

In order to carry out the provisions of this ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces and clear areas as they apply to Independence Airport. Such zones are shown in the

Independence Airport Development District map dated May 28, 1980, which is attached to this ordinance and made a part hereof. The various zones are defined as follows:

A. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

a. 1,250 feet for a utility runway; or

b. 1,500 feet for a runway other than a utility runway.

2. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward.

3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

B. Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,000 feet.

C. Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

1. 250 feet for utility runways.

2. 500 feet for other than utility runways.

76.020 Application of Airport Development District Provisions

A. In any zoned area where an Airport Development District designation is combined with a primary zone, the following regulations shall apply. If any conflict in regulation or procedure occurs with zoning districts hereinbefore specified, the provisions of the Airport Development District shall govern.

B. In any area where the Airport Development District designation is combined with a primary zone and which is also subject to the Airport Safety and Compatibility Overlay Zone, if any conflict in regulation or procedure occurs with the zoning districts hereinbefore specified, the provisions of the Airport Safety and Compatibility Overlay Zone shall govern.

76.030 Permitted Uses

All structures and uses within the Airport Development District shall conform to the requirements of Federal Aviation Agency Regulation FAR-77 or successor, and to other federal and state laws regulating structural height, smoke, steam or dust and other hazards of flight, air navigation or public health, safety and welfare.

A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed based operator facilities; a residence for an airport caretaker or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing and other uses.

B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.

C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.

D. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.

E. Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.

F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.

G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service,

maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.

H. Open land for aviation runway protection zone.

I. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.

K. Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.

L. Agriculture, excluding the commercial ~~arising~~ raising of animals which would be adversely affected by aircraft passing overhead.

M. Landscape nursery, cemetery, or recreation areas, which do not include buildings or structures.

N. Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights, or result in glare, or in any other way impair visibility in the vicinity of the land approach.

O. Pipeline.

P. Underground utility wire.

Q. A structure or building accessory to a permitted use.

R. A single family dwelling, or commercial or industrial use if permitted in the primary zoning district and subject to the requirements of Subsection 76.020.

S. Buildings and uses of a public works, public service or public utility nature.

76.040 Uses Permitted Subject to the Acceptance of the Airport Sponsor.

The following uses and activities and their associated facilities and accessory structures are permitted in the Public Use Airport Zone upon demonstration of acceptance by the airport sponsor.

- A. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic recreation and sporting activities authorized under this paragraph include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; and gyrocopter flights, but do not include flights carrying parachutists or parachute drops (including all forms of skydiving).
- B. Flights carrying parachutists, and parachute drops (including all forms of skydiving) onto an airport, but only upon demonstration that the parachutist business has secured approval to use a drop zone that is at least 10 contiguous acres. The configuration of the drop zone shall roughly approximate a square or a circle and may contain structures, trees, or other obstacles only if the remainder of the drop zone provides adequate areas for parachutists to land safely.

76.045 Limitations

- A. The height of any structure shall be limited to requirements prescribed by the Planning Commission or by any other local ordinance or regulation.
- B. Whenever there is a conflict in height limitations prescribed by this ordinance or another pertinent ordinance, the lowest height limitation fixed shall govern. Provided, however, that the height or other limitations and restrictions here imposed shall not apply to such structures or uses customarily employed for aeronautical purposes.
- C. Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, resulting glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

76.050 Nonconforming Uses

The regulations prescribed by this ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the

construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

76.055 Marking and Lighting

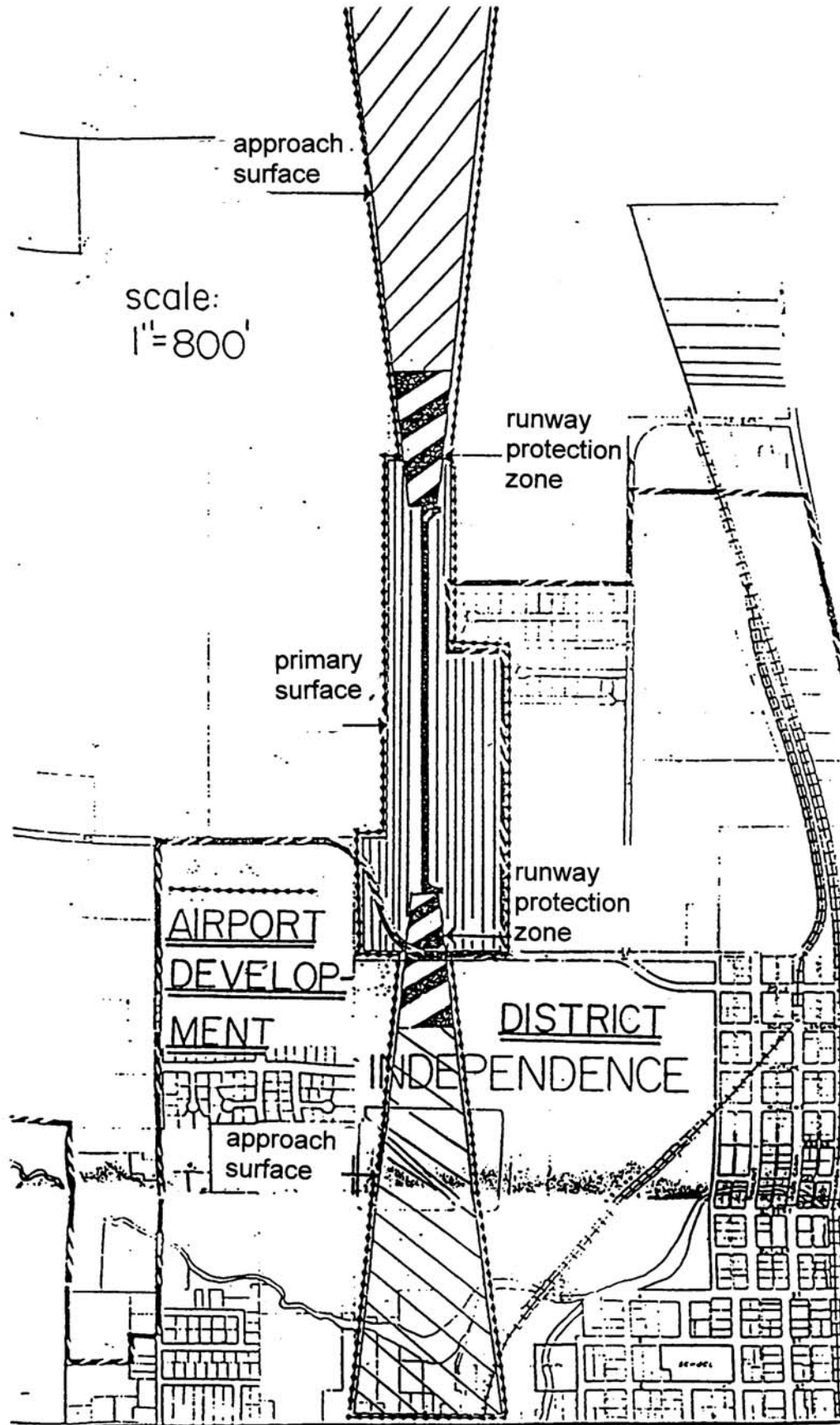
Notwithstanding the provisions of Section 76.050, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by Oregon Department of Aviation to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

76.060 Variances

Any person desiring to erect any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this ordinance, may apply to the Planning Commission for a variance from such regulations following those procedures for variances set forth in Subchapter 70. The application for variance shall also be accompanied by a determination from the Oregon Department of Aviation as to the effect of the proposal of the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance.

76.065 Notice Requirements

- A. Notice of application and hearing will be set out in Subchapter 11 of this ordinance.
- B. Notification shall also be provided to the Oregon Department of Aviation by certified mail, with return receipt requested.



SUBCHAPTER 77

AIRPORT ZONE HEIGHT LIMITATIONS

77.005 Purpose

The purpose of this chapter is intended to prevent the establishment of space obstructions in air approaches through height restrictions.

77.010 Special Definitions

A. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

a. 1,250 feet for a utility runway; or

b. 1,500 feet for a runway other than a utility runway.

2. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward.

3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

B. Airport Hazard means any structure, tree, or use of land which unreasonably obstructs the air space required for the safe flight of aircraft in landing or taking off at Independence Airport, or is otherwise hazardous to such landing or taking off of aircraft.

C. Airport Hazard Area means any area of land upon which an airport hazard might be established if not prevented.

D. Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,000 feet.

E. Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that

runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

1. 250 feet for utility runways.
2. 500 feet for other than utility runways.

77.015 Application of Airport Zone Height Limitations Provisions

A. In any zoned area where an airport approach area is combined with a primary zone, the following regulations shall apply. If any conflict in regulation or procedure occurs with a primary zone herein before specified, the provisions of this chapter shall govern.

B. The Planning Commission shall designate airport approach surface and runway protection zone areas on an Airport Development District Map which is attached to this ordinance and made a part hereof.

C. The following standards shall be applied to the Airport Development District in establishing appropriate height limitations for structures and objects of natural growth:

1. The runway protection zones will be kept free of any height obstructions which might be hazardous to normal air navigation operations, as determined by the State of Oregon Department of Aviation.
2. Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height of up to 35 feet above the surface of the land, except for areas in the approach surface. Height limitations for the approach surface will be based upon the following ratio: slopes 20 feet outward for each foot upward beginning at the end of the paved runway and extending to a horizontal distance of 5,000 feet.
3. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.

77.020 Nonconforming Uses

A. Regulations Not Retroactive - The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

B. Marking and Lighting - Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

C. Nonconforming Uses Abandoned or Destroyed - Whenever the City of Independence determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

77.025 Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, not in accordance with the regulations prescribed in this chapter, may apply to the Planning Commission for a variance from such regulations following those procedures for variances set forth in Subchapter 70. The application for variance shall be accompanied by a determination from the Oregon Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance. Additionally, no application for variance to the requirements of this chapter may be considered by the Planning Commission unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within fifteen (15) days after receipt, the Planning Commission may act on its own to grant or deny said application.

SUBCHAPTER 78

AIRPORT SAFETY AND COMPATIBILITY OVERLAY ZONE

78.005 Purpose.

The purpose of this overlay zone is to encourage and support the continued operation and vitality of public use airports with only visual approaches by establishing compatibility and safety standards to promote air navigational safety at Independence State Airport and to reduce potential safety hazards for persons living, working or recreating near such public use airports.

78.010 Special Definitions

- A. Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.
- B. Airport Direct Impact Area. The area located within 5,000 feet of an airport runway, excluding lands within the runway protection zone and approach surface.
- C. Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.
- D. Airport Imaginary Surfaces. Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.
- E. Airport Noise Impact Boundary. Areas located within 1,500 feet of an airport runway or within established noise contour boundaries exceeding 55 Ldn.
- F. Airport Secondary Impact Area. The area located between 5,000 and 10,000 feet from an airport runway.
- G. Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.
- H. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.
 - 1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - a. 1,250 feet for a utility runway; or
 - b. 1,500 feet for a runway other than a utility runway.

2. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward.
 3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- I. Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- J. Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.
- K. FAA. The Federal Aviation Administration.
- L. FAA's Technical Representative. As used in this ordinance, the federal agency providing the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to, the USDA-APHIS-Wildlife Services.
- M. Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.
- N. Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet.
- O. Obstruction. Any structure or tree, plant or other object of natural growth that penetrates an imaginary surface.
- P. Other than Utility Runway. A runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.
- Q. Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:
1. 250 feet for utility runways.
 2. 500 feet for other than utility runways.

R. Public Assembly Facility. A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

S. Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

T. Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,000 feet.

U. Significant. As it relates to bird strike hazards, "significant" means a level of increased flight activity by birds across an approach surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.

V. Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

W. Transitional Surface. Those surfaces that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces that project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline.

X. Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Y. Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or

instrument designations have been approved or planned, or are indicated on an FAA-approved airport layout plan or any other FAA planning document.

Z. Water Impoundment. Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of this ordinance.

78.015 Imaginary Surface and Noise Impact Boundary Delineation.

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface are part of the Independence Zoning Map. All lands, waters and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this overlay zone.

78.020 Notice of Land Use and Permit Applications within Overlay Zone Area.

Except as otherwise provided herein, written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications.

A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 5,000 feet of the sides or ends of a runway.

B. Notice of land use and limited land use applications shall be provided within the following timelines.

1. Notice of land use or limited land use applications involving public hearings shall be provided prior to the public hearing at the same time that written notice of such applications is provided to property owners entitled to such notice.

2. Notice of land use or limited land use applications not involving public hearings shall be provided at least 20 days prior to entry of the initial decision on the land use or limited land use application.

C. Notice of the decision on the land use or limited land use application shall also be provided to the airport sponsor within the same timelines that notice is provided to parties to the proceeding.

D. Notices required under Paragraphs A-C of this section need not be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application meets all of the following criteria:

1. Would only allow structures of less than 35 feet in height;
2. Involves property located entirely outside the approach surface;
3. Does not involve industrial uses, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar transmission facilities or electrical transmission lines; and
4. Does not involve wetland mitigation, creation, enhancement or restoration.

78.030 Height Limitations on Allowed Uses in Underlying Zone.

All uses permitted by the underlying zone shall comply with the height limitations in this Section. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control.

- A. Except as provided in subsections B and C of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.
- B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.
- C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA.

78.040 Procedures.

An applicant seeking a land use or limited land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

- A. A map or drawing showing the location of the property in relation to the airport imaginary surfaces. The Community Development Department shall provide the applicant with appropriate base maps upon which to locate the property.
- B. Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.
- C. If a height variance is requested, letters of support from the airport sponsor, the Department of Aviation and the FAA.

78.050 Land Use Compatibility Requirements.

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of this chapter as provided herein.

A. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall be attached to any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn. [NOTE: FAA Order 5100.38A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.]

B. Outdoor lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

C. Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision

D. Industrial emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.

E. Communications Facilities and Electrical Interference. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall comply with all other requirements shall be coordinated with the Department of Aviation and the FAA prior to approval.

F. Use prohibitions in RPZ. Notwithstanding the underlying zoning, the following uses are prohibited in the RPZ.

1. New residential development.
2. Public assembly facilities.

G. Landfills. No new sanitary landfills, sewage lagoons, sewage sludge disposal facilities or similar facilities shall be permitted within 5,000 feet from any airport runway used by only piston-type aircraft or within 10,000 feet of any airport runway used by turbojet aircraft. Expansions of existing landfill or sewage treatment or disposal facilities within these distances shall be permitted only upon demonstration that the landfills are designed and will operate so as not to increase the likelihood of bird/aircraft collisions. Timely notice of any proposed expansion shall be provided to the airport sponsor, Aviation and the FAA, and any approval shall be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result.

H. Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas. The land uses identified in Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in this section, a limited use means a use that is allowed subject to special standards specific to that use.

TABLE 1
Land Uses

Use	Runway Protection Zone ¹	Approach Surface ⁸	Direct Impact Area
Public Airport	L ²	L ⁹	P
Residential	N	L ¹⁰	L ¹⁰
Commercial	N	L ⁹	L ¹⁴
Industrial	P	P	P
Institutional	N	L ⁹	L ¹⁴
Farm Use	P ³	P ³	P ³
Roads/Parking	L ⁴	P	P
Utilities	L ⁵	L ⁵	L ⁵
Parks/Open Space	L ⁶	P	P
Golf Courses	L ⁷	L ^{7,9}	L ⁷
Athletic Fields	N	L ⁹	L ¹³
Sanitary Landfills	N	N	N
Water Treatment Plants	N	N	N
Mining	N	L ¹¹	L ¹¹
Water Impoundments	N	N	P
Wetland Mitigation	N	L ¹²	L ¹²

P = Use is Permitted

L = Use is Allowed Under Limited Circumstances (see Footnotes)

N = Use is Not Allowed

Table 1 Footnotes:

1. No structures shall be allowed within the Runway Protection Zone. Exceptions shall be made only for structures accessory to airport operations whose location within the RPZ has been approved by the Federal Aviation Administration.
2. In the RPZ, public airport uses are restricted to those uses and facilities that require location in the RPZ.
3. Farming practices that minimize wildlife attractants are encouraged.
4. Roads and parking areas are permitted in the RPZ only upon demonstration that there are no practicable alternatives. Lights, guardrails and related accessory structures are prohibited. Cost may be considered in determining whether practicable alternatives exist.
5. In the RPZ, utilities, powerlines, and pipelines must be underground. In approach surfaces and in airport direct and secondary impact areas, the proposed height of utilities shall be coordinated with the airport sponsor and the Department of Aviation.
6. Public assembly facilities are prohibited within the RPZ.
7. Golf courses may be permitted only upon demonstration, supported by substantial evidence, that management techniques will be utilized to reduce existing wildlife attractants and avoid the creation of new wildlife attractants. Such techniques shall be required as conditions of approval. Structures are not permitted within the RPZ. For purposes of this Chapter, tee markers, tee signs, pin cups and pins are not considered to be structures.

8. Within 10,000 feet from the end of the primary surface of a non-precision instrument runway, and within 50,000 feet from the end of the primary surface of a precision instrument runway.

9. Public assembly facilities may be allowed in an approach surface only if the potential danger to public safety is minimal. In determining whether a proposed use is appropriate, consideration shall be given to: proximity to the RPZ; density of people per acre; frequency of use; level of activity at the airport; and other factors relevant to public safety. In general, high-density uses should not be permitted within airport approach surfaces, and non-residential structures should be located outside approach surfaces unless no practicable alternatives exist.

10. Residential densities within 500 feet of the outer edge of the RPZ, shall not exceed 1 unit/acre;

11. Mining operations involving the creation or expansion of water impoundments shall comply with the requirements of this Chapter regulating water impoundments.

12. Wetland mitigation required for projects located within an approach surface or airport direct impact area shall be authorized only upon demonstration, supported by substantial evidence, that it is impracticable to provide mitigation outside of these areas. Proposals for wetland mitigation shall be coordinated with the airport sponsor, the Department of Aviation, the FAA, and wetland permitting agencies prior to the issuance of required permits. Wetland mitigation shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways and approach surfaces. Conditions shall be imposed as are appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

13. Within the transition surface, residential uses and athletic fields are not permitted.

14. Within the transition surface, overnight accommodations, such as hotels, motels, hospitals and dormitories, are not permitted.

78.070 Wetland Mitigation, Creation, Enhancement and Restoration within Approach Surfaces and Airport Direct Impact Boundaries.

A. Wetland mitigation, enhancement or restoration projects located within approach surfaces and direct impact area boundaries shall be allowed upon demonstration of compliance with the requirements of this Section.

B. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this ordinance and located within approach surfaces and direct impact area boundaries are recognized as lawfully existing uses.

C. To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces and direct impact area boundaries is encouraged.

D. Applications to expand wetland mitigation projects in existence as of the effective date of this ordinance, and new wetland mitigation projects, that are proposed within approach surfaces and direct impact area boundaries shall be

considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:

1. It is not practicable to provide off-site mitigation; or
2. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.

E. Wetland mitigation permitted under subsection D. of this Section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.

F. Applications to create, enhance or restore wetlands that are proposed to be located within approach surfaces and direct impact area boundaries, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:

1. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and
2. The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.

G. Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this Section shall be coordinated with the airport sponsor, the Department of Aviation, the FAA and FAA's technical representative, the Oregon Department of Fish & Wildlife (ODFW), the Oregon Division of State Lands (DSL), the US Fish & Wildlife Service (USFWS), and the US Army Corps of Engineers (Corps) as part of the permit application.

H. A decision approving an application under this Section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

78.080 Nonconforming Uses.

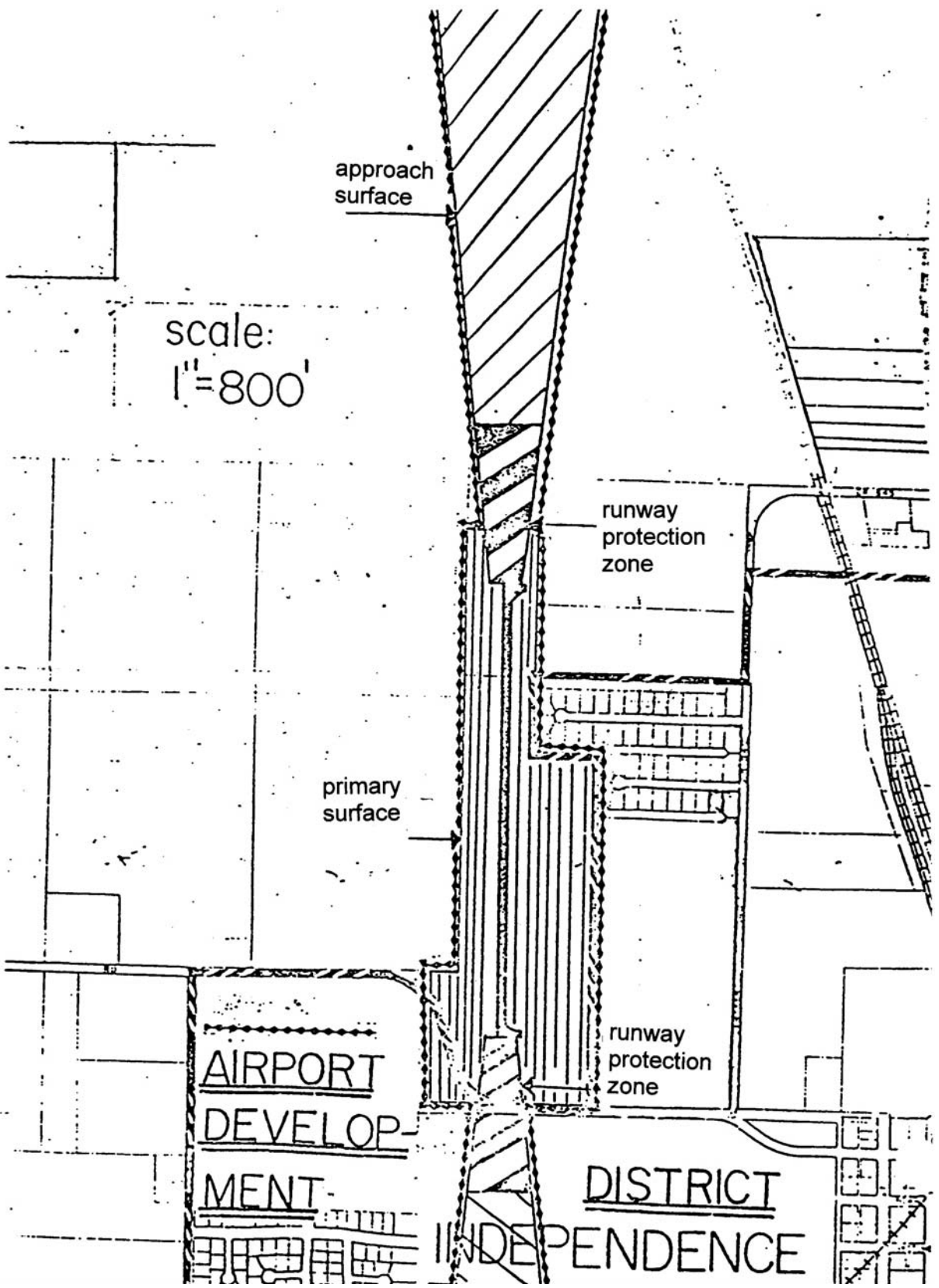
A. These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this overlay zone.

B. Notwithstanding subsection A. of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.

C. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this overlay zone.

78.090 Avigation Easement.

Within this overlay zone, the owners of properties that are the subjects of applications for land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of 50% or 1,000 square feet, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the airport sponsor. The avigation easement shall be in a form acceptable to the airport sponsor and shall be signed and recorded in the deed records of the County. The avigation easement shall allow unobstructed passage for aircraft and ensure safety and use of the airport for the public. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.



CHAPTER 80

SITE DESIGN REVIEW REQUIREMENTS

80.10 PURPOSE.

The purposes and objectives of site development requirements and the site design review procedure are to:

- A. Ensure that site development plans are designed in a manner, which ensures proper functioning of the site, encourages originality, flexibility and innovation, and maintains a high quality visual environment;
- B. Conserve the city's natural beauty and historic and visual character by giving proper attention to the exterior appearance of structures and improvements and by insuring that structures and improvements are properly related to their sites, to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping;
- C. Protect and enhance the city's visual appeal and thus stimulate and stabilize commercial and industrial activity;
- D. Stabilize and improve property values, prevent blighted areas and, thus, increase tax revenues;
- E. Ensure that adequate public facilities are available to serve development as it occurs and that proper attention is given to site planning and development so as to not adversely impact the orderly, efficient and economic provision of public facilities and services.
- F. Achieve the benefit of pleasant environments for living and working on behavioral patterns and, thus, decrease the cost of governmental services and reduce opportunities for crime through careful consideration of physical design and site layout;
- G. Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of the city's favorable environment and, thus, promote and protect the peace, health and welfare of the city.

80.20 PROCEDURE

- A. Site Development Review shall be applicable to all new developments, major remodeling of existing developments except:
 - 1. single-family detached dwellings;
 - 2. a duplex;

3. any commercial or industrial remodel or expansion that does not exceed 25% of the total square footage of the existing structure; or

4. any new development, change of occupancy, or commercial or industrial remodel, that does not intensify the use of the property by increasing the number of customers, vehicle and pedestrian traffic to the site, parking requirements, etc.

B. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

C. No development or building permit shall be issued for any development within the city until the plans, drawings, sketches and other documents required under Section 80.30.005 have been reviewed and approved by the City in conformity with the criteria specified in this subchapter.

D. For purposes of this section the term "development" shall mean land use, limited land use building permit, or permit applications of any kind, or the erection, construction or exterior remodeling of buildings, structures, parking lots, streets and roads, and signs in all zones, except as noted in Section 80.20(A).

E. The provisions of this chapter shall apply to all accessory buildings, structures, exterior signs and other site features, however related to the major buildings or structures.

F. Site design review approval is valid for one year from the date of notice of the final decision. All building, land use and utility permits must be secured within the one-year time frame.

G. Site design authority may be extended for up to five years for phased developments. The requested phases must be applied for and approved in the original site design review application. Phased developments not completed within five years must reapply for site design review.

H. Development in Accord with Plans. Construction, site development and landscaping shall be carried out in a substantial accord with the plans, drawings, sketches and other documents approved by the city, unless altered with city approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and replacement of any part of the building or landscaping which does not involve a substantial change from the goals and objectives of this subchapter. Proposed substantial changes shall be submitted to the city for approval and shall be subject to the procedures and requirements for new site design review proposals.

80.20.010 Application of Other Requirements. The requirements of this subchapter are in addition to all other requirements, including but not limited to the Independence City Code, Zoning and Development Ordinance, and Comprehensive Plan.

80.20.015 Application Process. Except as provided in Section 80.20.020, site design review applications shall be processed as Type I actions as described in Subchapter 11. The City may deny a development permit for failure to adequately address or comply with the standards set forth in Subsection 80.40.

80.20.020 Review of Large-Scale Commercial Developments. Site design review applications for commercial developments with more than 40,000 square feet of gross floor area shall be processed as Type III actions as described in Subchapter 11.

80.30 SITE DESIGN REVIEW APPLICATION REQUIREMENTS

80.30.005. Submission of documents. An applicant for a building or other permit who is subject to site design review shall submit to the City, in addition to the requirements of Subsection 90.40 of the Independence City Code, the information listed below. The applicant shall submit three copies each of the required site analysis diagram, site development plan and landscape plan unless authorized by the City to combine the required information into one plan. When a public hearing is required, one additional set shall be submitted which is of a size that is conveniently reproducible, not to exceed 11 inches by 18 inches.

- A. Site Analysis Diagram - drawn to scale, indicating the following information:
 - 1. Adjacent land-uses (i.e., whether vacant, or occupied by a 2-story apartment building, grocery store, etc.). If there is a residence within 50 feet of the subject site, indicate the specific location of the building, its size and distance from the subject property boundary.
 - 2. Location of trees greater than four inches in diameter when measured five feet above the ground; indicate if evergreen or deciduous. Where the site is heavily wooded, only those trees that will be affected by the proposed development need to be sited accurately. The remainder of trees may be shown on the map in the general area of their distribution.
 - 3. Topography.
 - 4. Natural drainage; and arrows indicating the direction of the natural drainage.
 - 5. Lot dimensions and total area of the lot.
- B. Site Development Plan - drawn to scale, indicating the following information:
 - 1. Legal description of the lot;

2. Dimensions and total area of the lot;
3. Location of all existing and proposed structures, including minimum distances from all structures to all lot lines;
4. The total area in terms of percentages, devoted to the following:
 - a. Structures
 - b. Parking
 - c. Landscaping
 - d. Transportation facilities
5. Rights-of-way of all abutting streets or paths whether public or private, and access to the site;
6. Parking plan showing location, size and number of all parking spaces, driveways and access points.
7. Locations and dimensions of all easements and nature of the easements;
8. Location of any non-access strips;
9. Other site elements which will assist in the evaluation of site development; including (1) existing and proposed water, sewer and storm drain connections to the existing public utility system, (2) final building, parking area, and lot corner elevations, (3) drainage patterns.
10. Exterior lighting; the type, height and areas of illumination.
11. Service areas for uses such as mail delivery and trash disposal, and bicycle facilities consistent with subchapter 73 and the City's Comprehensive Master Bicycle Plan.
12. Location, size, materials, color and method of illumination of all signs.
13. Utility Plan. A preliminary utility plan showing existing and proposed on and off-site utilities in sufficient detail to evaluate the intent and feasibility of the proposed method of service and to determine its impact on the public utility systems.
14. Locations and sizes of existing and proposed fire service lines, hydrants, and other fire suppression facilities within and adjacent to the development.
15. Final building, parking area, lot grading elevations and lot drainage patterns;
16. Additional data to be provided for multi-family residential developments or dwelling structures which contain three or more units:

- a. Outdoor play area, if any.
 - b. Locations and dimensions of all recreation areas, equipment, recreation and service buildings, and areas of recreation space in square feet.
- C. Landscape Plan - drawn to scale, indicating the following information:
 - 1. Lot dimensions, outline of structure(s), scaled location of windows and doors;
 - 2. The size, species (identifying both botanical and common names) and location of plant material and other landscaping materials; those to be retained on the site and those newly planted and landscaping materials and methods of construction;
 - 3. The dimensions, location, and area (in square feet) for each landscape area intended to fulfill the requirements of Subchapter 54.
 - 4. The size and location of all storm water facilities intended to fulfill the requirements of Subchapter 55.
 - 5. Locations and types of fences, walls, berms, and landscaped areas intended to fulfill requirements for perimeter screening.
 - 6. Tree staking details;
 - 7. The city may require a solar access analysis to determine the shading characteristics of the proposed buildings and trees (at mature heights) on December 21st between 9:00 A.M. and 3:00 P.M.
- D. Architectural Drawings - including floor plans and elevations.
- E. Irrigation Specifications Automatic underground irrigation systems are to be indicated on the landscape plan unless a licensed landscape architect certifies that the landscaping will likely survive without irrigation.
- F. A non-refundable application fee as set by the city council.
- G. Any other information reasonably required to achieve the intent of this subchapter, the city zoning regulations and the comprehensive plan.

80.40 REVIEW CRITERIA AND STANDARDS

The following standards shall be utilized in reviewing the plans, drawings, sketches and other documents required by this subchapter. These standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method

of review for the city. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation.

A. Preservation of landscape and significant wildlife habitat. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree, wetland and soils removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

B. Environmental design considerations. Proposed structures shall be located and designed to insure harmony with the natural environment, including protection of steep slopes, vegetation and other naturally sensitive areas for wildlife habitat and shall provide proper buffering from less intensive uses. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, street access or relationships to natural features such as vegetation or topography.

C. Traffic, parking and circulation considerations. With respect to vehicular, bicycle, and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to the arrangement and relationships of buildings in terms of pedestrian accessibility, location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of proposed buildings and structures and the neighboring properties. Based on the anticipated vehicular, bicycle, and pedestrian traffic generated, consideration may need to be given to improvements to the right-of-way such as installation of lighting, signalization, turn lanes, paving, curbs, sidewalks, bikeways and other facilities required because of the increased traffic generated by the development.

D. Landscaping considerations. The following factors shall be considered by the applicant when planning the landscaping in order to accomplish the purpose of this section. The City Manager or designee will have the authority to deny an application for failure to comply with any or all of these conditions:

1. Compatibility with the proposed project and the surrounding and abutting properties and the uses occurring thereon. Noise reduction shall be considered by planting dense vegetation or berming when residential structures are located adjacent to a street of at least arterial street status.
2. Screening the proposed use by sight-obscuring, evergreen plantings, shade trees, fences, or combinations of plantings and screens.
3. The retention of existing trees and natural areas that may be incorporated in the development of the project. The existing grade should be preserved to the maximum practical degree. Existing trees shall be provided with a watering area equal to at least one-half the crown area.

4. The development and use of islands and plantings therein to break up parking areas.

5. The use of suitable street trees in the development of new subdivisions, shopping centers and like developments. Certain trees shall be prohibited in parking areas: poplar, willow, fruit, nut, birch, conifer and ailanthus.

6. The requirements of Subchapter 54.

E. Crime prevention considerations. Criminal activity may be reduced by paying specific attention to landscaping, parking areas, walkways, lighting, entries and exits and visibility and by having laundry areas and shared recreational facilities, such as pools or recreational facilities, located in a common area with visibility from individual units. Addresses of the buildings should be clearly visible from the adjacent public street.

F. Surface Water Drainage. Special attention shall be given to proper grading and contouring of the site, on-site surface drainage and on-site storage of surface water facilities, when necessary, so that removal of surface waters will not adversely affect neighboring properties, public rights-of-way or the public storm drainage system. All storm water facilities shall comply with the requirements of Subchapter 55.

G. Utility Service. Any utility installation above ground shall be located so as to have an harmonious relation to neighboring properties and site. The proposed method of sanitary sewage disposal from all buildings shall be indicated.

H. Advertising Features. In addition to the requirements of the city's sign regulations, the size, location, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures or features shall be compatible with and shall not detract from the design of proposed buildings and structures and the surrounding properties.

I. Special Features. Exposed storage areas, garbage collection areas, exposed machinery installations, surface areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall be required to prevent their being incongruous with the existing or contemplated environment and its surrounding properties. For multi-family residential developments, consideration shall be given to outdoor storage facilities for articles such as barbecues, outdoor furniture and bicycles.

J. Energy Conservation. Special consideration shall be given to measures designed to promote energy conservation which is promoted by one or all of the following measures:

1. Use of evergreen plantings so that the trees at maturity will buffer against winter winds.

2. Use of windbreaks and avoidance of large areas of window glass and entry doors on extreme weather-exposed sides of a structure.
3. Design and orientation of buildings and windows to enhance unobstructed solar access and passive solar collection while using architectural shading devices to reduce summer heat gain.

80.60 PERFORMANCE STANDARDS FOR INDUSTRIAL DEVELOPMENT

The discharge into the environment of solids, liquids or gases in such quantities as to be detrimental to the public health, safety and welfare, to cause injury to human, plant or animal life or to property, or to violate air, water, soil or wetlands standards promulgated by local, State or Federal law is prohibited. In any industrial zone, no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

- A. Heat, glare and light:
 1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building; such heat and glare shall not be discernible at or beyond the property line;
 2. Exterior lighting shall be directed away from and shall not reflect on adjacent properties.
- B. Noise shall be muffled and shall not be objectionable due to intermittence, frequency or shrillness and shall not exceed standards established by local, State or Federal law.
- C. Sewage: Adequate provisions shall be made for the disposal of sewage and waste, which provisions shall meet the requirements established by local, State or Federal law.
- D. Vibration: No vibration, other than that caused by highway vehicles and trains shall be permitted if such vibration will endanger the health, welfare or safety of the public or constitute a public nuisance.
- E. General Standards: No activity shall be conducted in any industrial zone which will cause the emission of noise, vibration, residue, discharge or odor which is offensive to the community.

80.70 ADDITIONAL REQUIREMENTS

80.70.005 To the extent necessary to meet the criteria for site design review contained in this subchapter, the City may impose the following additional requirements on a development subject to advising the applicant of the reason in writing.

- A. Establish the suitability of the landscape plan by having it prepared by a licensed landscape architect.

- B. Obtain approval of a grading and drainage plan for the collection, treatment and transmission of storm or ground water, from an engineer licensed to practice in the State of Oregon.
- C. Establish vehicle, bicycle, and pedestrian access facilities with due consideration to size, location and grade, safety and convenience.
- D. Dedicate and improve public street rights-of-way, a pedestrian way, bikeway or bike path, or an easement for utilities, a waterway or slope protection.
- E. In the case of commercial or industrial development, provide access by a frontage road having limited and controlled access onto an arterial street by means of traffic signals, traffic control islands or other means that will preserve the traffic-carrying capacity and safety of the arterial street and will avoid the cumulative effect of individual access points directly onto the arterial street.
- F. Provide access to a street that intersects an arterial street instead of taking access directly from the arterial street in order to preserve the traffic-carrying capacity and safety of the arterial street and avoid the cumulative effect of individual access points directly onto the arterial street.
- G. Limit hours of operation to reduce conflicts with other uses in the surrounding area.

SUBCHAPTER 81

WIRELESS COMMUNICATION FACILITIES

81.010 Wireless Communication Facilities.

“WIRELESS COMMUNICATION FACILITY” means an unstaffed facility for the transmission or reception of radio frequency (RF) signals usually consisting of an equipment shelter, cabinet, or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices. It is the intent of the City Council that this definition shall be interpreted and applied as technology evolves to reflect changes in the manner of providing wireless communication services. These shall include devices defined and regulated by the 1996 Telecommunications Act.

81.030 Wireless Communication Permits.

A. During the review for a wireless communications facility conditional use permit, the City shall consider the design, setback, and visual buffering of the associated shelter or enclosed facility. Towers and/or antenna facilities shall be disguised whenever possible, such as the use of existing billboards, church steeples, and trees.

B. The City declares its legislative policy to restrict and minimize the number of towers necessary to serve the community of Independence. A conditional use permit issued for any wireless communications facility shall be valid for a period not to exceed five years. Sharing of tower facilities by more than one service provider shall be required, unless the applicant demonstrates that sharing of these facilities is not technically feasible. The design of all towers must be such as to accommodate multiple co-locators to serve the reasonably anticipated users of wireless communication facilities. Any application for a new tower must contain a scientific study demonstrating that the conditional uses previously authorized for this use are inadequate to serve the community of Independence. The renewal of conditional uses shall be subject to a finding that the permittee has even-handedly administered the requests from all vendors of Wireless Communication Services. A conditional use permit may be renewed by the applicant for additional five-year increments for a total of 25 years. The sole review criteria for renewal of a wireless communication conditional use shall be whether the facility and the applicant shall have fully complied with all conditions and requirements of the original installation.

C. All Wireless Communication facilities are prohibited in all residential zones, and within 350 feet of any residential zones. Any existing facilities at the time of annexation or rezoning must be phased out (amortized) over a period of five years from the date of annexation or rezoning. If a Wireless Communication Facility is not used for a period of one year, the conditional use permit shall automatically expire at the end of the one year period. The facility shall be dismantled within ninety days of the expiration of the conditional use permit. Applicant shall keep timely records of the use and maintenance of the site during the life of the permit.

SUBCHAPTER 90
SUBDIVISION REGULATIONS

Subchapter 90.10 General Provisions

90.10.005 Title

This chapter shall be known as the "Independence Subdivision Regulations" and may be so pleaded.

90.10.010 Purpose

The purpose of this chapter is to establish standards and procedures for land divisions in the city. These regulations are necessary to provide uniform procedures and standards for the subdivision and partition of land, to provide the proper construction and arrangement of space in order to avoid undue congestion of population, to provide adequate light and air including protection and assurance of access to incident solar radiation for potential future use, to assure adequate sanitation and water supply, to provide for orderly development and conservation of land, to protect the general health, safety and welfare and to implement the Comprehensive Land Use Plan of the City of Independence.

90.10.015 Scope

The criteria in this chapter apply to all land divisions in the city.

90.10.020 Sale Prohibited

No person shall sell any lot or parcel created by a land division until final approval of the land division has been granted by the city. Final approval of a land division occurs when the partition or subdivision plat is recorded with the county clerk.

90.10.025 Building Permits and Improvements Prohibited

No building permit shall be issued for any lot or parcel created after the effective date of this chapter if such lot or parcel is not created in conformity with the criteria set out in this chapter. No excavation of land or construction of improvements shall be commenced except in conformity with this chapter.

90.10.030 Conditions

The city may attach reasonable conditions to any approval it deems necessary to implement the provisions of this chapter and the Comprehensive Land Use Plan of the city; to ensure the general health, safety and welfare of residents of the city and to promote the economical and aesthetic development of land in the city.

90.10.035 Violations and Penalties

Violation of any provision of this chapter is punishable upon conviction by a fine not to exceed \$500.00. Each day of a continuing violation constitutes a separate violation.

Subchapter 90.20 Definitions

CONSTRUCTION

As used in this chapter, of the masculine includes feminine and neuter and the singular includes the plural. The particular controls the general. The word "shall" is mandatory, the word "may" is permissive.

ACCESS

"Access" means the way or means by which pedestrians and vehicles enter and leave property.

ALLEY

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

ALTER

"Alter" means any change, addition, or modification in construction of a structure or building.

BLOCK

"Block" means a parcel of land bounded by three or more streets in a subdivision.

BLOCK LENGTH

"Block Length" means the distance measured along all that part of one side of a street which is between two intersecting or intercepting streets, or between an intersecting or intercepting street and a railroad right-of-way, water course, body of water, or undivided acreage.

BUILDING LINES

"Building Lines" means a line that is parallel with and adjacent to the most forward portion of a building.

BUILDING OFFICIAL

"Building Official" means the superintendent of the building department or his designate.

CITY

"City" means the City of Independence, Oregon.

COMMISSION

"Commission" means the City Planning Commission.

COMPREHENSIVE LAND USE PLAN

"Comprehensive Land Use Plan" means the master plan adopted by the City Council and approved by the Land Conservation and Development Commission for the guidance of physical, economic and social growth and improvement of the City.

CONDOMINIUM

"Condominium" means the land, whether leasehold or in fee simple and whether contiguous or noncontiguous, all buildings, improvements, and structures thereon, and all easements, rights, and appurtenances belonging thereto.

COUNCIL

"Council" means the common council of the City.

CURB CUT

"Curb cut" means a driveway opening where a curb is provided along a street.

DEVELOPMENT PLAN

"Development Plan" means any plan adopted by the Planning Commission or Council for the guidance or growth and improvement of the city, including modifications or refinements which may be made from time to time.

DWELLING UNIT

"Dwelling Unit" means a single unit providing complete independent facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT

"Easement" means a grant of the right of use across or through a block, lot, parcel or tract of land for specific purposes.

INCIDENT SOLAR RADIATION

"Incident Solar Radiation" means solar energy falling upon a given surface area.

LAND DIVISION

"Land Division" means the creation of a lot or parcel of land through the subdivision or partition process.

LOT

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

LOT, CORNER

"Corner Lot" means a lot abutting on two or more streets, other than an alley, at their intersection.

LOT, CURVILINEAR

"Curvilinear Lot" means a lot having a curved frontage.

LOT LINE ADJUSTMENT

"Lot Line Adjustment" means an adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with all requirements of this Ordinance.

MAJOR PARTITION

"Major Partition" means a partition, as defined by this ordinance, that includes the creation of a road or street.

MAP

"Map" means a final diagram, drawing or other writing concerning a major partition.

MINOR PARTITION

"Minor Partition" means a partition, as defined by this ordinance, that does not include the creation of a road or street.

NEGOTIATE

"Negotiate" means any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.

OWNER

Where used in relationship to real property, "Owner" means the legal owner of record or, where there is a recorded land sales contract in force, the purchaser thereunder.

PARCEL

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

PARTITION

"Partition" means either an act of partitioning land or an area or tract of land partitioned as defined in this section.

PARTITION LAND

"Partition Land" means to divide land into two or three parcels of land within a calendar year, but does not include:

- A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;
- C. The division of land resulting from the recording of a subdivision or condominium plat;
- D. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan. However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
- E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into

adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

PARTITIONED LAND

Amended 1986.

PARTITION PLAT

"Partition Plat" includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

PERSON

"Person" means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof.

PLANNING COMMISSION

"Planning Commission" means the Planning Commission of the City of Independence, Oregon.

PLANNED UNIT DEVELOPMENT

"Planned Unit Development" means a complex of residential and/or commercial structures designed and developed as a single development unit, built by a single owner or group of owners and maintained by an association. Conversion of existing multiple dwelling unit structures to condominiums shall constitute a Planned Unit Development. The phrase Planned Unit Development may be abbreviated "PUD".

PLAT

See "Partition Plat" and "Subdivision Plat".

PROPERTY LINE

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

PROPERTY LINE ADJUSTMENT

"Property Line Adjustment" means the relocation of a common property line between two abutting properties.

RESERVE BLOCK

"Reserve Block" means a strip of land usually one foot in width, reserved across the end of a street or alley terminating at the boundary of a subdivision, or a strip of land

between a dedicated street of less than full width and adjacent acreage, in either case reserved or held for future street extension or widening.

RIGHT-OF-WAY

"Right-of-Way" means the area between boundary lines of a street or other easement assigned for public purposes.

ROAD OR STREET

"Road or Street" means a public or private way that is created to provide ingress or egress to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes. The term street shall include such designations as highway, thoroughfare, park-way, throughway, road, avenue, boulevard, lane, court, place or other such terms.

A. Arterial. A major facility for moving large volumes of inter-area traffic primarily carrying through-traffic.

B. Collector Street. A facility that allows intra-area traffic to connect to the arterial system. It supplies abutting property with the same degree of land service as a local street but is given priority over local streets in any traffic control installation.

C. Local Street. It serves primarily to provide direct access to abutting land and offers the lowest level of traffic mobility. Through traffic movement is deliberately discouraged.

D. Cul-de-sac. A short, dead-end street with vehicular turn-around at the dead-end.

E. Dead-End Street. An arterial, collector, local or cul-de-sac street which will be completed or extended and with no turnaround at the present dead-end.

F. Marginal Access Street (frontage road). A minor street parallel and adjacent to an arterial or collector street providing access to abutting properties, but protected from through traffic.

SALE or SELL

"Sale or Sell" includes every disposition or transfer of land.

SERVICE UTILITIES

Whenever the term "service utilities" or "service utility" is used it shall mean and include public street lighting and water mains and facilities for fire protection and the following utilities for residential service: water, sanitary sewer, electricity, gas, telephone and television cable service.

SUBDIVIDE LAND

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

SUBDIVIDER

"Subdivider" means any person who proposes a land division.

SUBDIVISION

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

SUBDIVISION PLAT

"Subdivision Plat" includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision prepared as specified by Oregon Revised Statutes Chapter 92.

TENTATIVE PLAN

"Tentative Plan" means a preliminary map of a partitioning or preliminary plat of a subdivision.

UTILITIES

"Utilities" means water, gas, sewer, electrical, telephone and wire communication service, and all persons and companies supplying the same.

WETLANDS

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Subchapter 90.40 MINOR PARTITIONING REGULATIONS

90.40.010 Minor Partition Procedure for Approval.

Land divisions other than subdivisions or major partitions shall be known as minor partitions and shall be approved under the procedures contained in this subchapter. Minor land partition decisions shall be made by the City Manager or designee as a Type I decision under Zoning Code Section 11.015.

90.40.012 Applications for Minor Partitions.

Applications for all minor partitions, as defined in this chapter, shall be filed with the City. An application shall be submitted in writing in a format provided by the City.

90.40.015 Filing an Application for a Minor Partition Action.

The City Manager or designee shall examine each application to ascertain if the appropriate forms have been completed, the appropriate fees have been paid and if all required documents and information have been submitted. Three copies of a sketch map 18 by 24 inches in size containing the date, north point, scale and sufficient description to define the location and boundaries of the parcel to be partitioned shall be submitted to the City Manager or designee along with the following information:

- A. The name and address of the owner of record and of the person who prepared the map.
- B. The names and addresses as compiled from the most recent county property tax assessment roll of all property owners within 100 feet of the entire contiguous site for which the application is made. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- C. The approximate acreage of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the minor partition.
- D. For land adjacent to and within the parcel to be partitioned, the locations, names and existing widths of all streets and easements of way; location, width and purpose of all other existing easements; and location and size of sewer and water lines, drainage ways and power poles.
- E. Outline, location and setback dimensions to property lines of existing buildings to remain in place.
- F. Outline, location, approximate date of original construction and dimensions of existing building and other structures to be removed.
- G. Lot layout, showing size and relationship to existing or proposed streets and utility easements.
- H. Such additional information as required by the City Manager or designee.

90.40.020 Notice and Procedural Requirements.

Minor land partition decisions shall be made by the City Manager or designee as Type I decisions under Zoning Code Section 11.015.

90.40.025 Standards for Minor Partition Requests.

The City Manager or designee may approve the minor partition application upon a finding that:

- A. The proposed division complies with the requirements for its submittal, all requirements of the Comprehensive Plan, the intent and purposes of this Chapter and all other applicable laws and regulations;
- B. The proposed division is not contrary to previous conditions imposed upon the use or development of the subject parcel by the Planning Commission; and
- C. The proposed division is consistent with the extension of existing or planned City improvements such as streets.
- D. The City Manager or designee may require dedication of land and easements and may specify conditions or modifications in the sketch plan necessary to carry out the City's Comprehensive Plan standards, land use regulations and other applicable legal requirements. In no event, however, shall the City Manager or designee require greater dedications or conditions than could be required if the parcel were subdivided.
- E. If the parcel of land to be partitioned exceeds five acres and within a year is being partitioned into more than two parcels, any one of which is less than one acre, full compliance with all requirements for subdivisions may be required if the City Manager or designee should determine that the entire parcel being partitioned is in the process of being divided into small parcels.

90.40.030 Appeal.

Appeals of minor land partition decisions shall be made as provided under Zoning Code Section 11.040.

90.40.035 Final Plat Submission Requirements

- A. An application for minor plat final approval shall be made by the person proposing the land division, or authorized agent or representative, on a form prescribed by the Planning Department and submitted after the effective date of preliminary plat approval. Said applications shall be accompanied by a final plat and additional information as prescribed in this section.
- B. The applicant shall submit the final plat within one (1) year of preliminary plat approval.

90.40.040 Technical Review.

Upon receipt of the final plat and accompanying data, the City Manager or designee shall review the final plat and documents to determine that the plat conforms with the approved

tentative plat, and that there has been compliance with provisions of the law of this chapter. The City Manager or designee shall either approve, deny, or when further information is required, postpone a decision on the application. If the City determines that there has not been full conformity, the partitioner shall be advised of the changes or additions that must be made and will be afforded a reasonable opportunity to make such changes or additions.

Approval shall be granted, provided that:

- A. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision or the major partition as approved, and all conditions of approval have been satisfied.
- B. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect that the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U. S. Geological Survey or giving two or more permanent objects for identifying its location.

90.40.045 Expiration of Minor Partition Approval.

- A. If the conditions set at the time of approval are not fulfilled and the plat or map offered for record by the partitioner in the office of the County Recorder within one year, the minor partition approval is null and void, and new application for plat approval must be submitted for reconsideration.
- B. The City Manager or designee may, upon request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months. Requests for extension of approval shall be submitted, in writing, thirty (30) days prior to the expiration date of the approval period.

90.40.050 Appeal.

Appeals of minor land partition decisions shall be made as provided under Zoning Code Section 11.040.

90.40.055 Resubmission Of Requests.

Any request for a minor partition which has been denied by the City Manager or designee shall not be resubmitted for a period of one year following the date of the denial unless consent for resubmission is approved by the Planning Commission or the City Council.

90.40.060 Rescission Of A Minor Partition Approval.

Prior to recording the final plat, any minor partition action granted under this chapter may be rescinded by the City Manager or designee if it is found that the application for such action contains false statements, or if subsequent division, development, or use of land occurs in a manner different from that which was approved.

Subchapter 90.60 SUBDIVISIONS AND MAJOR PARTITIONING REGULATIONS

90.60.005 Scope of Subchapter. This subchapter shall apply to all subdivisions and major partitions in the city and, to the extent applicable, all minor partitions in the city. No parcel of land or contiguous parcels of land under single ownership shall be partitioned as a major partition or subdivided for the transfer of ownership or development so as to conflict with the standards as set forth in this subchapter.

90.60.010 Design Standards. The standards contained in Subchapter 90.50 through 90.90 shall apply to all land divisions regulated by this chapter.

90.60.015 Preliminary Conference. A conference shall be held prior to the submission of any tentative plan or drawing to enable the City to put the applicant on notice of the provisions of this chapter. Any applicant for a land division shall submit a plan of the preliminary scheme for the layout of property to be divided to the City. No statements or representations made by the City shall constitute an agreement or approval with respect to any land division or requirements of this chapter.

90.60.020 Tentative Plat. The subdivider shall prepare a tentative plat together with improvement plans and other supplementary materials and, after payment of a filing fee to the city in accordance with 90.60.022 of this chapter, shall submit 9 copies of the tentative plan and supplementary data on forms prescribed by the Planning Commission at least 45 calendar days prior to the next available Planning Commission meeting. The tentative plat shall show all pertinent information to scale in order that the Planning Commission may properly review the proposed development. Recording size copies of the tentative plat, 18 by 24 inches or 24 by 36 inches, shall be submitted to the city.

90.60.022 Fees. Fees for filing an application for a subdivision or major partition shall be set by resolution of the City Council.

90.60.025 Tentative Plat, Scale. The tentative plat shall show all pertinent information, normally at a scale of one inch equals 50 feet. For subdivision, the scale may be increased or decreased to fit standard size sheets of 18 inches by 24 inches. Major partition tentative plats shall conform to dimensions and size as specified by the County Recording office for major partition maps offered for record, and the scale may be adjusted accordingly. However, in all cases the scale shall be standard, being 10, 50, 100 or multiples of 100 feet to the inch. No partition survey or description may be made by any surveyor or person until tentative approval has been given by the Planning Commission.

90.60.030 Tentative Plat, Information. The following information shall be shown on the tentative plat:

- A. Proposed name of the subdivision. Except for the words "town", "city", "place", "court", "addition", or similar words, the name shall be clearly different and clearly pronounced differently from the name of any other subdivision in the County, unless the subject subdivision is contiguous to and platted by the same party that platted the preceding subdivision bearing that name. All subdivisions must continue the block

numbers of the subdivision of the same name last filed. The City shall reserve the right to assign or have assigned a sequential number placed upon the tentative map.

- B. The proposed language to be used in the dedication.
- C. Date, north point with orientation to the upper edge of the plan, and scale of drawing.
- D. Appropriate identification clearly stating the plan is a tentative plan.
- E. Location of the subdivision sufficient to define the location and boundaries of the proposed tract and its relation to surrounding land uses and existing and proposed transportation facilities.
- F. Names and addresses of the owner, subdivider, surveyor, and engineer.
- G. The location, width, names, approximate grades and radii of curves of streets. The relationship of streets, bikeways and pedestrian facilities to any existing or projected streets, bikeways and pedestrian facilities as shown on the Independence Transportation System Plan or as may be suggested by the Planning Commission in order to assure adequate traffic circulation.
- H. The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips proposed to satisfy requirements which may be required as provided for in other sections of this chapter.
- I. The location and approximate dimension of lots and the proposed lot and block numbers.
- J. The approximate radii of all curves.
- K. Sites, if any, allocated for purposes other than single family dwellings.
- L. A vicinity map, showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision, and showing how proposed streets, bikeways, pedestrian facilities, and utilities may be extended to connect to existing and proposed streets and utilities.
- M. Proposed deed restrictions, if any, in outline form.
- N. Approximate center line profiles with extensions for a distance of 200 feet beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street, bikeway, and sidewalk construction.
- O. A plan for domestic water supply, including the source, and plans for water lines.

P. Proposals for sewage disposal, storm water drainage, erosion control, storm water treatment, and flood control, including profiles of proposed drainage ways.

Q. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil. All lots created shall be level and finish graded to allow positive drainage and mowing of the lots until building construction.

R. Proposals for other improvements such as electric utilities, street lighting, landscape plans. Required landscape plans must conform to Subchapter 54, Buffering and Screening Requirements.

S. A complete service utility plan for the subdivision to be made which plan shall require easements adequate to meet the underground service utility requirements of the subdivision, but not to exceed the preliminary requirements. The utilities to be located in any proposed easements shall be identified on the plan. The final plat of the subdivision as provided shall contain a dedication to the public of easements in accordance with the service utility plan as adopted by the Commission. The City may require the extension of utilities to any boundary line of the proposed development to allow for future development beyond the subject property.

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

U. Any other information relevant to the proposal consistent with the purposes and scope of this chapter.

V. Location of park property and other public areas.

W. A cross-section of each street, bikeway, and pedestrian facility proposed, including roadway pavement, curb, sidewalk, designated bikeway, gutters and planter strips.

X. The plan required above, reduced to 8½ x 11 inches.

Y. Traffic Impact Analysis. Depending on the nature and scope of the proposed development, the City Manager or designee may require a traffic impact analysis report, prepared by a registered transportation engineer, including the following:

1. The total estimated vehicular, pedestrian, bicycle and other transit service trips to be generated from the proposed development;
2. The impact of the total estimated vehicular, pedestrian, bicycle and other transit service trips on the existing street, sidewalk, bicycle and other transit systems within the City; and
3. The estimated level of improvement necessary to mitigate the total impact from the proposed development as identified in item 2.

90.60.040 Partial Subdivision Plat/Master Plan. If the subdivision plat pertains to only part of the tract owned or controlled by the subdivider, the subdivider shall provide a sketch of a tentative layout for streets, bikeways, pedestrian facilities, and lots in the unsubdivided portion.

90.60.045 Tentative Plat Changes. Any changes in a tentative plat initiated by the applicant shall constitute a new application and shall be accompanied by the fees required in this subchapter.

90.60.050 Existing Conditions. The following existing conditions shall be shown on the tentative plat:

- A. The location, widths and names of both opened and unopened streets, bikeways and pedestrian facilities within or adjacent to the tract, together with easements and other important features, such as section lines, corners, city boundary lines and monuments.
- B. Location and size of sewer and water lines (including laterals, drainage ways and the location of power poles).
- C. Contour lines related to some established bench mark or other datum approved by the city and having minimum intervals as follows:
 - 1. For slopes of less than 5 percent: show the direction of slope by means of arrows or other suitable symbol, together with not less than four spot elevations per acre, evenly distributed.
 - 2. For slopes of 5 percent to 15 percent: five feet.
 - 3. For slopes of 15 percent to 20 percent: ten feet.
 - 4. For slopes of over 20 percent: 20 feet.
 - 5. For slopes in designated flood plain areas and drainage ways: 5 feet except that the flood plain elevation and contour lines shall also be noted.
- D. The location of at least one temporary bench mark within the plan boundaries.
- E. The location and direction of water courses and the location of areas subject to flooding.
- F. Natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees.
- G. Existing uses of the property, including location of all existing structures to remain on the property after platting or mapping.

H. Locations and widths of streets and roads, bikeways and pedestrian facilities held for private use, and all reservations or restrictions relating to such private roads and streets.

I. Existing uses of all abutting parcels, including the location of existing structures, roads, streets bikeways, pedestrian facilities, and easements contiguous to the parcel to be subdivided.

90.60.055 Governmental Notification And Comment. Within ten working days after the major partition or subdivision application is submitted, according to the provisions of this chapter, the City Manager or designee shall distribute copies thereof to the appropriate agencies and departments for review, comments and recommendations.

90.60.057 Major Partition And Subdivision Procedural Requirements. Preliminary plat review for a major partition or subdivision shall be made by the Planning Commission as a Type II procedure under Zoning Code Section 11.015 and as specified by this subchapter. Final plat review shall be conducted by the City Manager or designee as a Type I procedure under Zoning Code Section 11.015 and as specified by this subchapter.

90.60.058 Preliminary Plat Approval Criteria. The Planning Commission may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

A. The proposed preliminary plat complies with the requirements for its submittal, all requirements of the Comprehensive Plan, all requirements of this Chapter, all requirements of the Zoning Code, and all other applicable laws and regulations.

B. All proposed streets, alleys, sidewalks, pedestrian facilities, bicycle facilities, pathways, utilities, and surface water management facilities conform or transition to the plats of subdivisions and major partitions already approved for adjoining property as to width, general direction, and all other respects and such facilities comply with the standards of the Monmouth Comprehensive Plan, Transportation System Plan, Zoning Code, and this chapter.

C. All proposed public improvements and dedications are identified on the preliminary plat.

D. All proposed private common areas and improvements (e.g. home owner association property) are identified on the preliminary plat.

E. All proposed lots, blocks, and parcels meet the standards of the applicable zoning district and this chapter.

F. Land proposed for dedication as park land has been provided and approved by the City Council or as provided in Subsection 90.90.060. In lieu of this dedication, the City Council may require that a fee be paid as specified in Subsection 90.90.060.

G. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or major partition plat.

H. In accordance with the Uniform Fire Code, a 20-foot wide fire apparatus access drive shall be provided to serve all portions of a building located more than 150 feet from a public right-of-way or approved access drive.

I. The City may attach such conditions as are necessary to carry out the provisions of this Code and all other applicable ordinances and regulations and may require reserve strips be granted to the City for the purpose of controlling access to adjoining properties.

90.60.065 Tentative Plat - Effective Date. Unless appealed, Planning Commission decisions shall become effective on the 13th day after the date the decision is rendered. The applicant may then proceed with final surveying and preparation for final approval. The tentative plat approval shall be effective for one year, within which time the application and major partition map or application and subdivision plat must be submitted as required by this chapter to the planning department for approval of the final plat. Otherwise, the entire procedure must be repeated for reconsideration in light of changed conditions that may exist.

90.60.070 Final Plat.

A. Any application for major partition or subdivision plat final approval shall be made by the person proposing the land division, or authorized agent or representative, on a form prescribed by the City Manager or designee and submitted after the effective date of tentative approval. Said applications shall be accompanied by plats and additional information as prescribed in this section.

B. The applicant shall submit the final plat within one (1) year of preliminary plat approval.

C. One original and two copies, 18 inches by 24 inches in size. Original plats shall be in substantial conformity with the approved tentative plan and shall conform to the Polk County Surveyor's specifications and requirements and all requirements of Oregon Revised Statutes Chapter 92. Sheet dimensions and size shall be as specified by the County recording officer for major partition plats offered for record.

90.60.075 Information Required on Final Applications. The application provided for in 90.60.070 of the proposed subdivision plat or the major partition must contain the following information with respect to the subject area:

A. The lengths of all chords, radii points of curvature, and tangent bearings shown.

B. The lot lines of all lots within the subdivision, or all parcel lines within the major partition, with dimensions in feet and hundredths of feet and with all bearings

shown. Area in square feet for each lot shall also be tabulated or indicated on each lot.

C. Numbers designating each block and lot in subdivisions, lots in each block to be numbered consecutively.

D. Where a plat is an addition to a plat previously recorded, numbers of blocks and lots in consecutive continuation from such previous plat.

E. The description and location of all permanent reference monuments, including a tie, section corner, 1/4 corner, donation land corner, other such reference point.

F. An affidavit of an Oregon licensed land surveyor, and who surveyed the subdivision or major partition, conforming to the requirements of the Oregon Revised Statutes.

G. The location of all existing easements for public utilities and such easements being created, and also all reserve strips required as provided for by Section 90.90.010 of this chapter.

H. A designation of all area being dedicated by the applicant, including proposed uses, and an effective written dedication thereof.

I. Designation of all donations to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water systems, the donation of which was made a condition of approval of the tentative plan for the subdivision or major partition.

J. A copy of all protective deed restrictions being proposed.

K. A title report issued by a title insurance company licensed by the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public.

L. Certificates. The following, which may be combined where appropriate, must be included:

1. A certificate that the subdivider has entered into agreement with the city relating to completion of improvements, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute, or federal law. The subdivider is responsible for the cost of an independent third party inspector for all public improvements including, but not limited to sewer, water, storm drainage and road construction, said inspection fees will be paid to the city before construction begins. Inspection fees will be set by the City Council. The subdivider shall be responsible for payment of any inspection fee costs that exceed the fee amount set by the City Council. All unused inspection fees

shall be refunded to the subdivider upon satisfactory completion of all inspections.

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

3. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.

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

5. Other certifications now or hereafter required by law.

M. County Tax Assessor Certification. County tax assessor verification is required on Final Plat stating that all taxes and assessments on the tract are paid.

90.60.090 Technical Review. Upon receipt of the final plat and accompanying data, the City Manager or designee shall review the final plat and documents to determine that the plan conforms with the approved tentative plat, and that there has been compliance with provisions of the law of this chapter. The City Manager or designee shall either approve, or deny the final plat based on findings regarding compliance with the following criteria. If the City determines that there has not been full conformity, the subdivider shall be advised of the changes or additions that must be made and will be afforded a reasonable opportunity to make such changes or additions.

Approval shall be granted, provided that:

A. Streets, roads, bikeways and pedestrian facilities, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.

B. Streets and roads bikeways and pedestrian facilities held for private use and indicated on the tentative plan of such subdivision or major partition have been approved by the city.

C. The proposal complies with Independence policies and plans, all provisions of this chapter, the Independence Zoning Code, and the Independence Public Works Standards.

D. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision or the major partition as approved, and all conditions of approval have been satisfied.

E. The plat contains a dedication to the public of all common improvements, including but not limited to streets, roads, bikeways and pedestrian facilities, parks,

sewage disposal and water supply systems, the dedication of which was made a condition of the approval of the tentative plan for the subdivision or major partition.

F. The applicant has provided copies of all recorded homeowner association Codes, Covenants, and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g. for access, common areas, parking, etc.) and other recorded documents pertaining to common improvements recorded and referenced on the plat.

G. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect that the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U. S. Geological Survey or giving two or more permanent objects for identifying its location.

H. Either:

1. Improvements as required by this chapter or as a condition of tentative plan approval have been completed and a certificate of such fact has been filed with the City Manager or designee and a certification by the City that water and sanitary sewer service is available to each and every lot depicted on the plat; or

2. A performance agreement, or suitable substitute as agreed upon by the city and applicant, has been filed with the City Manager or designee in sufficient amount to insure the completion of all required improvements, as provided in 90.60.100 and 90.60.105 of this subchapter.

I. The subdivider shall provide:

1. A maintenance bond, in effect for a period of one (1) year, for all public improvements. The bond shall be equal to 30 percent of the construction cost of such improvements for a period of one year.

2. The subdivider shall submit, in writing, the date on which the one (1) year maintenance bond period shall begin.

J. Soils report.

1. Any area proposed for subdivision development shall be investigated to determine the soil characteristics, and a soils engineering report shall be submitted with every application. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures, design criteria for corrective measures, and opinions and recommendations covering the adequacy of sites to be developed.

2. The investigation and subsequent report shall be completed and presented to the Commission by a geotechnical engineer registered in the State of Oregon and experienced and knowledgeable in the practice of soil mechanics.

3. Recommendations included in the report and approved by the geotechnical engineer shall be incorporated in the design plan or specifications. Recommendations shall include all new street section designs for a 30-year period. Residential footing and foundation design shall also be included. Recommendations for construction methods and materials shall include both dry and wet weather construction conditions.

4. Any area which presents one or more of the following limiting factors shall not be subjected to development unless the geotechnical engineer can demonstrate conclusively that these limitations can be overcome in such a manner as to prevent hazard to life, hazard to property, adverse effects on the safety, use, or stability of a public way or drainage channel, and adverse impact on the natural environment:

- Water table within three feet of the surface at any time of the year;
- Natural slopes greater than 15 percent;
- Soils with a high shrink-swell potential; or
- Soils with a severe rating for the proposed use.

90.60.095 Approval of Final Plat. If the final plat is approved as provided under Section 90.60.090, the City Manager or designee shall so advise the Chairman of the Planning Commission who may then sign the plat without further action by the Planning Commission.

90.60.100 Agreement for Improvements. Before Planning Commission approval is certified on the final plat, the subdivider shall install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision. The subdivider may, in lieu of completion of the required improvements and repair to existing streets and facilities, request approval of an agreement between the subdivider and the City specifying the period within which required improvements and repairs shall be completed. The agreement shall not be effective until approved by the City Manager or designee. The agreement shall provide 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 subdivider. The agreement may provide for the construction of the improvements in units and for an extension of time under specified conditions. The City Manager or designee may reject any agreement authorized by this section for any reason the City Manager or designee deems sufficient.

90.60.105 Bond.

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

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.

2. A personal bond cosigned by at least two additional persons, together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.

3. Cash, or pledge of approved securities.

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

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

D. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.

90.60.110 Filing of Final Plat. Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to Polk County for signatures of County officials as required by ORS Chapter 92. Upon final recording, the applicant shall submit to the City three (3) copies of all sheets of the recorded final plat. This shall occur prior to issuance of building permits for the newly-created lots.

90.60.120 Expiration of Major Partition and Subdivision Approvals.

A. If the conditions set at the time of approval are not fulfilled and the plat or map offered for record by the partitioner or subdivider in the office of the County Recorder within one year, the subdivision or major partition approval is null and void, and new application for plat approval must be submitted for reconsideration.

B. If, in the opinion of the City, conditions have changed to a sufficient degree to warrant reconsideration of the tentative plan, an application for tentative plan approval must be resubmitted and approved prior to subdivision plat or major partition map application submittal and reconsideration.

C. The Planning Commission may, upon request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six (6) months. Requests for extension of approval shall be submitted, in writing, thirty (30) days prior to the expiration date of the approval period.

90.60.130 Resubmission Of Requests. Any request for a major partition or subdivision which has been denied by the Planning commission or City Council shall not be resubmitted for a period of one year following the date of the denial unless consent for resubmission is approved by the Planning Commission or the City Council.

90.60.135 Rescission Of A Land Use Action. Prior to final plat approval, any major partition or subdivision action granted under this chapter may be rescinded by the Planning Commission or City Council if it is found that the application for such action contains false statements, or if subsequent division, development, or use of land occurs in a manner different from that which was approved.

Subchapter 90.70 PLANNED UNIT DEVELOPMENT REGULATIONS

90.70.005 Planned Unit Development Standards. A planned unit development applied for as a conditional use under the city's Zoning Ordinance shall be reviewed and approved on the same basis as if the request were for a subdivision. No parcel of land or contiguous parcels under common ownership within the city shall be approved as a planned unit development for transfer of ownership or building development so as to conflict with applicable standards for subdivisions as set forth in this chapter. The sale of condominiums developed from existing structures shall be considered a land division and shall be reviewed as a planned unit development under this chapter and Chapter 91 of the Independence City Code (Zoning).

Subchapter 90.80 IMPROVEMENTS

90.80.005 Improvement Requirements. The following improvements are summarily required in subdivision and major partitions, and may be applied to minor partitions as conditions for approval and shall be installed at the expense of the subdivider.

A. Water Supply. Lots within a subdivision shall be served by an adequate city water supply system conforming to city specifications. Testing of new water lines is required using city approved methods.

B. Sewage. All lots shall be served by an adequate city sewage disposal system conforming to city specifications. The materials and methods of construction of any sewer line shall provide for a water-tight system. Testing of new sewer lines is required using city approved methods.

C. Drainage. Such grading shall be performed and drainage facilities installed conforming to city specifications as is necessary to provide property drainage within the subdivision and other affected areas in order to assure healthful, convenient conditions for the residents of the subdivision and for the general public. Drainage facilities in the subdivision shall be connected to drainage ways or storm sewers

outside the subdivision. Dikes and pumping systems shall be installed if necessary to protect the subdivision against flooding or other inundation. All drainage improvements must conform to Subchapter 80, Storm Water Management Requirements and applicable State and Federal laws.

D. Streets. The subdivider shall grade and improve streets in the subdivision and the extension of such streets to the paving line of existing streets with which such streets intersect in accordance with city specifications. The paving line of existing streets shall be "saw-cut" to provide the most stable joint with the new street construction. Treatment of the joint created at this point will conform with general road construction standards. Section design will be based on an on-site soils investigation, report and recommendation by a licensed geotechnical foundation engineer. The road sub-base, base and asphalt overlay shall be tested for compaction requirements outlined in the engineer's report or as recommended by the city.

E. Pedestrian Ways. Sidewalks shown on the street sections shall be installed as located on those sections as a result of the subdivision or major partition. The date of sidewalk installation shall conform with the procedures outlined in Subsection 90.90.105.

F. Bikeways. Bikeways consistent with the Independence-Monmouth Bicycle Master Plan and the Independence Transportation System Plan shall be installed in accordance with City standards.

G. Monuments. Monuments shall be installed in accordance with city standards and with the requirements of the Oregon Revised Statutes.

H. Service Utilities. Before approval shall be given of any plat or plan of any subdivision, the subdivider shall provide for the installation of all service utilities in underground conduits and for easements therefor in the manner as hereby set forth and subject to the conditions set forth in this ordinance. The city may require installation of said utilities to any boundary line of the parcel being divided as to provide for the orderly extension of utilities or future development.

I. Above-Ground Utility Prohibited. In all new subdivisions in the City of Independence hereafter approved by the Commission it shall be unlawful for any service utility or utilities to be installed or used above the surface of the ground except on a temporary basis upon a special permit issued by the Building Official, but no use under such a special permit shall extend for total period of more than six months from the date of issue of the first permit therefore. All new street light poles shall be metal. The developer is responsible for any initial cost for such poles (one time fee and concrete footings). The developer will contact and coordinate this work with the appropriate utility.

J. Manner of Installation. All service utilities installed as herein provided shall be installed at a depth and in the manner conforming to city specifications.

K. Acceptance of Public Improvements. Acceptance of all public improvements will comply with Section V - Acceptance Policies of the City of Independence Specifications and Standards for Public Works Construction.

90.80.010 Improvement Procedures. In addition to other requirements, improvements shall conform to the requirements of this ordinance and improvement standards or specifications adopted by the City and shall be installed in accordance with the following procedure:

A. Work shall not be commenced until plans have been reviewed for adequacy and approved by the City. For evaluation of the subdivision proposal, the engineering plans will be required before approval of the final map or plat. All plans shall be prepared in accordance with acceptable engineering standards by a registered engineer, licensed to practice in the State of Oregon. The fee for engineering plan review shall be set by the City Council.

B. Work shall not be commenced until the city has been notified in advance, and if work has been discontinued for any reason it shall not be resumed until the city has been notified. A pre-construction meeting with the city is required prior to any construction activity, including material storage and mobilization of equipment to the site.

C. Required improvements shall be inspected by and constructed to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such change in the public interest. The cost of improvement inspection will be paid by the developer in accordance with 90.60.075.24.1. The fee for construction inspection shall be set by the City Council. The developer shall submit cost estimates for such improvements to the City for review and approval. The cost estimates must be prepared and stamped by a licensed engineer, registered in the State of Oregon.

D. Underground utilities, television cables, telephone lines, sanitary sewers and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities, television cable, telephone lines, and sanitary sewers shall be placed to lengths that will avoid the need to disturb street improvements when service connections are made.

E. Two (2) copies and one (1) reproducible copy of the plans showing public improvements as-built shall be filed with the city by the subdivider/developer or his agent upon completion of the improvements.

90.80.015 Specifications for Improvements.

Specifications for improvements shall be adopted by or under authority of city ordinance.

Subchapter 90.90 DESIGN AND DEVELOPMENT STANDARDS

90.90.005 Principles of Acceptability. Subdivisions and major partitions shall conform to any development plans and shall take into consideration tentative plans made in anticipation thereof. Subdivisions and major partitions shall conform to the requirements of state law and the standards established by this chapter.

90.90.010 Streets.

A. General. The location, width, and grade of streets, bikeways and pedestrian facilities shall be considered in their relation to existing and planned streets, bikeways and pedestrian facilities, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. All streets, bikeways and pedestrian facilities shall connect to other said facilities within the development and to existing and planned streets, bikeways, and pedestrian facilities outside the development. Where location is not shown in the Independence Transportation System Plan or other a development plan, the arrangement of streets in a subdivision shall either:

1. Provide for the continuation or appropriate projection of existing and planned streets, bikeways and pedestrian facilities in surrounding areas; or
2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets, bikeways and pedestrian facilities impractical.

B. Widths of street rights-of-way and paving design for streets shall not be less than those set forth in the table below. The street section shall be designed in accordance with Subsection 90.80.005.4.

C. The width of street rights-of-way provided in the table below shall be the minimum widths of rights-of-way for streets existing along and adjacent to any boundary of the subdivision or partition which is the natural or planned continuation of the alignment of the existing or proposed streets, and the applicant shall dedicate additional rights-of-way, as determined by the City in accordance with such table, for any such adjacent street where the existing width of rights-of-way for such street is less than the minimum in said table.

D. Street Standards:

Section	Type of Street	Right-of-Way Width	Paving Width	Sidewalk	Bicycle Facilities
A	Major Arterial	84 feet	60 feet	Yes	Bikelane
	Minor Arterial	66 feet	36 feet	Yes	Bikelane
B	Major Collector	66	36	Yes	Bikelane

Section	Type of Street	Right-of-Way Width	Paving Width	Sidewalk	Bicycle Facilities
	Minor Collector	66 feet	36 feet	Yes	Shared Roadway
C	Local residential streets serving more than 20 dwelling units	60 feet	36 feet	Yes	Shared roadway
D	Local streets and cul-de-sacs serving less than 20 dwelling units	50 feet	28 feet	Yes	Shared roadway
E	Circular end cul-de-sacs	112 feet	90 feet*	Yes	Shared roadway

* The Planning Commission may allow an optional 34-foot diameter landscape island in a cul-de-sac

E. Slope Easements. Slope easements shall be dedicated in accordance with specifications adopted by the City Council.

F. Reserve Strips or Block. The City may require the land divider to create a reserve block controlling the access to a street, said block to be placed under the jurisdiction of the Council:

1. To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street.
2. To prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in the above table.
3. To prevent access to land abutting a street of the partition or subdivision, but not within the partition or subdivision itself.
4. To prevent access to land unsuitable for building development.

G. Alignment. As far as practical, streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet.

H. Future Extension of Streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without a turnaround. Reserve strips or blocks may be required to preserve the objectives of street extensions.

I. Intersections of Streets:

1. Angles. Streets shall intersect one another at an angle as near to the right angle as is practicable considering topography of the area and previous adjacent layout. Where not practicable, the right-of-way and street paving within the acute angle shall have a minimum of 30 feet centerline radius where such angle is not less than 60 degrees. In the case of streets intersecting at an angle of less than 60 degrees, then of such minimum as the City may determine in accordance with the purpose of Section 90.10.010 of this chapter.

2. Offsets. Opposing intersections shall be designed so that no offset dangerous to the traveling public is created. Intersections on arterial streets should be separated by at least 500 feet; and in no case shall there be an offset of less than:

a. (250 feet) on a minor arterial street. To the greatest extent possible the City shall also encourage consolidation of curb cuts and access points on arterial streets.

b. (125 feet) on local and collector streets.

3. Collector and Residential Lot Access to Arterials and Collectors. When a residential development abuts an existing or proposed arterial or collector, the Planning Commission shall require that access to such streets be limited by one of the following means:

a. The lots of the development back onto the arterial or collector and front onto a parallel local street.

b. A series of cul-de-sacs, U-shaped streets, shared driveways, or short loops entered from and designed generally at right angles to the arterial or collector street and where no lots derive direct access to the arterial or collector street.

c. Lots that would only have access to an arterial or collector shall be restricted to the collector street.

J. Topography. The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of Section 90.10.010 of this chapter.

K. Future Extension of Streets. Where the subdivision or partition is adjacent to land likely to be divided in the future, streets shall continue through boundary lines to provide for the orderly division of such adjacent land or the transportation and access needs of the community.

L. Existing Streets. Whenever existing streets adjacent to or within a tract are of inadequate width with regard to right-of-way and/or roadway pavement, additional right-of-way and/or roadway pavement shall be provided by the developer(s) at the time of subdivision.

M. Cul-de-sac. There shall be no cul-de-sacs more than ~~400~~ 200 feet long or serving more than 20 single-family dwellings. Each cul-de-sac shall have a circular end with a minimum diameter of right-of-way width and paving as shown in the table in this subchapter. The use of cul-de-sacs shall be discouraged and may only be approved upon a showing by the applicant of unusual or unique circumstances justifying the cul-de-sac. A public access way connecting two (2) cul-de-sacs shall be required consistent with the standards for public accessways in Section 90.90.015(D).

For purposes of this section, "unusual or unique circumstances" exist when one of the following conditions prevent a required street connection:

1. Slopes are equal to or greater than 12 percent;
2. A wetland or other water body is present which cannot be bridged or crossed;
or
3. Existing development on adjacent property prevents a street connection.

N. Street Names. Streets that are in alignment with existing named streets shall bear the names of such existing streets. Names for streets that are not in alignment with existing streets are subject to approval by the Planning Commission, and need written approval by the Polk County Fire District #1 and the Independence Police Department, and shall not unnecessarily duplicate or resemble the name of any existing or platted street in the City.

O. Grades and Curves. Grades shall not exceed six percent on arterials, 10 percent on collector streets, or 12 percent on all other streets. Centerline radii on curves shall not be less than 300 feet on arterials, or 230 feet on all other streets and shall be to an even 10 feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept steeper grades and sharper curves. In flat areas allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.33 percent.

P. Streets Adjacent to Railroad Rights-of-Way. Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

Q. Marginal Access Streets. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access

streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection or residential properties and to afford separation of through and local traffic. Access shall comply with 90.90.010(10)C of this section.

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

1. Dedication. The Planning Commission may require adequate and proper alleys to be dedicated to the public by the land divider of such design and in such location as necessary to provide for the access needs of the subdivision or partition in accordance with the purpose of Section 90.10.010 of this chapter.

2. Width. Width of right-of-way and paving design for alleys shall be not less than 20 feet. Slope easements shall be dedicated in accordance with specifications adopted by the City Council.

3. Corner Cut-Offs. Where two alleys intersect, 10 feet corner cut-offs shall be provided.

4. Grades and Curves. Grades shall not exceed 12 percent on alleys, and centerline radii on curves shall be not less than 100 feet.

5. Other Requirements. All provisions and requirements with respect to streets in this subchapter shall apply to alleys the same in all respects as if the word "street" or "streets" therein appear as the word "alley" or "alleys" respectively.

S. Street trees are required in all new subdivisions in the amount of one tree for every 35 feet of street frontage. Species, size, location and installation construction will conform to the Independence Urban Forestry Management Plan, as adopted by the City Council. Street trees shall be installed prior to final plat approval or as allowed by an agreement with the City Manager or designee. Temporary irrigation may be required at the time of installation and will be maintained by the developer as long as required by dry/hot weather conditions.

T. Mail Boxes. Plans for mail boxes to be used, including type and location, shall be approved by the Independence Postmaster.

U. Paving, strip, and signage. All street plans shall include all required street signs, traffic control signs, and pavement striping. All pavement striping shall use a heat tape process. The developer shall furnish and install these items to city standards.

V. Access Management. New access to arterials and collectors shall be limited. Shared or consolidated access shall be required for development or land divisions adjacent to these facilities unless demonstrated to be unfeasible.

1. Number of Access Points. All proposed development shall have access to a public right-of-way. Spacing requirements for access points and intersections on arterials and collector streets shall be as shown in the following two tables:

Access Management Requirements Highway 51

			Intersection				Signal Spacing
			Public Road		Private Drive		
Functional Class	ODOT Category*	ODOT LOI**	Type	Spacing	Type	Spacing	
Arterial Hwy. 51	6	District	At Grade	500 feet	Lt./Rt. Turns	150 feet	¼ mile

* ODOT Category refers to Highway Access Management Categories established by the Oregon Department of Transportation to classify access management needs for state highways.

** ODOT LOI refers to the "Level of Importance" classification system established by the Oregon Department of Transportation to prioritize highway improvement needs and define operational objectives for state highways.

Access Management Requirements (City Streets)

Functional Class	Minimum Speed Posted	Minimum Spacing Between Driveways	Spacing Between Intersections
Major Arterial	35-50	250 feet	¼ mile
Minor Arterial	35-50	250 feet	250 feet
Major Collector	25-40	100-150 feet	250 feet
Collector	25-40	100-150 feet	250 feet

2. The distance between access points shall be measured from the centerline of the proposed driveway or roadway to the centerline of the nearest adjacent roadway or driveway.

3. Frontage on Service Roads and Common Drives.

a. Projects proposed on arterials shall include a frontage or service road and shall take access from the frontage road rather than the arterial. Frontage road design shall conform to ODOT standards. This access requirement may be met through the use of interconnecting parking lots which abut the arterial.

b. Adjacent uses may share a common driveway provided that appropriate access easements are granted between and among property owners.

4. Alternative Designs. Where natural features or spacing of existing driveways and roadways cause the foregoing access requirements to be physically unfeasible, alternate designs may be approved.

5. Access to Residential Lots. All lots in a proposed residential subdivision shall have frontage on and access from a local or collector street.

W. Bicycle Requirements. Bike lanes shall be provided during the construction, reconstruction, or relocation of arterial and collector streets. Design and construction of bikeways, or other public paths shall conform to the requirements of the American Association of State Highway and Transportation Officials (AASHTO) as revised and adopted in the "Oregon Bicycle and Pedestrian Plan".

X. Pedestrian Requirements.

1. Sidewalk shall be constructed along all arterial, collector, and local service streets.

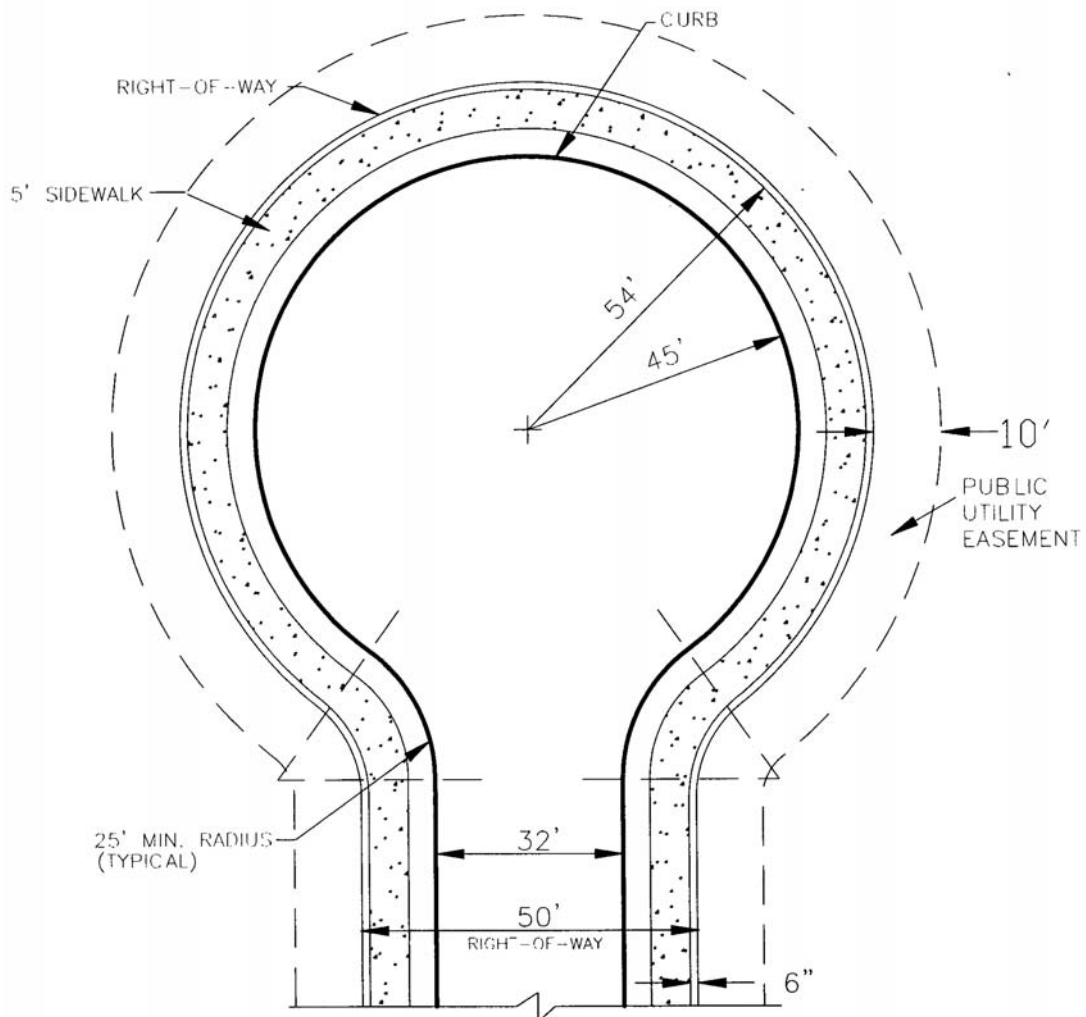
2. The design and construction of sidewalks and other public paths shall conform to the requirements of the "Oregon Bicycle and Pedestrian Plan", ADA requirements, and City of Monmouth standards.

Y. Accessways. Where required:

1. Accessways shall be located to provide a reasonably direct connection between likely pedestrian and cyclist destinations. A reasonably direct connection is a route which minimizes out-of-direction travel for most of the people likely to use the multi-use path considering terrain, safety, and likely destinations.

2. The design and construction of accessways shall conform to the requirements of the "Oregon Bicycle and Pedestrian Plan", ADA requirements, and City of Independence standards.

Z. Lighting. Illumination of all sidewalks and bicycle paths will be provided in conjunction with all new development. Adequacy of the lighting plan will be consistent with AASHTO standards and approved by the City Manager or designee. Metal street light poles with concrete bases are required.



NOTES:

1. PAVEMENT WIDTH EXCEPTION. A 28' WIDTH WITH A 41' RADIUS TURNAROUND MAY BE ALLOWED WHEN A CONSTRAINED SECTION IS APPROVED.
2. RIGHT OF WAY WIDTH EXCEPTION. A 40' WIDTH WITH A 47' RADIUS TURNAROUND MAY BE ALLOWED WHEN A CONSTRAINED SECTION IS APPROVED.

DRAW S.L.W.			City of Oregon City Public Works Standard Drawings 320 Warner Milne Rd. Oregon City, Oregon 97045	SCALE N.T.S.
BY J.W.H.				DATE JULY 1993
REV.	DATE	APP'D.		APP'D.
STANDARD CUL-DE-SAC				PROJECT NO. 503

90.90.015 Blocks.

A. General. The length, width and shape of blocks shall take into account the need for adequate lot size and street width, access needs, and shall recognize the limitations of the topography.

B. Size. No block shall exceed 600 feet in length or have a perimeter of more than 1,600 feet, except as follows:

1. Blocks with a perimeter of up to 1,800 feet are allowed if the average perimeter of blocks within a development does not exceed 1,600 feet; or
2. The block is adjacent to an arterial street or topographic conditions or the location of adjoining streets justifying the need for a larger block.

C. Public Access Ways. When necessary for public convenience and safety, the Planning Commission may require the land divider to dedicate to the public access ways to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans, or to provide access to schools, parks or other public areas of such design, width, and location as reasonably required to facilitate public use. Where possible, said dedications may also be employed to accommodate uses as included in Subsection (D) of this section.

D. Easements for Utilities. Dedication of easements for storm water sewers, and for access thereto for maintenance, in order to safeguard the public against flood damage and the accumulation of surface water, and maintenance, and dedication of easements for other public utilities, may be required of the land divider at sufficient widths for their intended uses, by the Planning Commission along lot or parcel rear lines or side lines, or elsewhere as necessary to provide needed facilities for present or future development of the area in accordance with the purpose of this chapter. In the tentative plans and plats of any proposed subdivision or major partition of the City of Independence submitted to the Commission, the subdivider or partitioner shall provide for dedicated easements fifteen feet in width for underground service utility lines and facilities. The easements shall extend the full length of the lot or parcel across the rear of each lot or parcel and shall extend on each side of the lot or parcel from the front of such lot or parcel to the rear. Such easements shall be dedicated to the City for the underground installation and maintenance of all service utilities that may be required.

90.90.020 Lots.

A. Access. Each lot shall abut upon a street other than an alley for a width of at least 25 feet.

B. Through Lots. Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages or topography and orientation. A planting screen easement across which there shall be

no right of access may be required along the line of lots abutting such a traffic artery or other incompatible use. The planting screen easement width, installation construction, quantity of plantings, and species type shall conform to the Independence Urban Forestry Management Plan, as adopted by the City Council, and meet the requirements of Subchapter 54, Buffer and Screening.

C. Lot Side Lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lot or parcel face, except that on curved streets they shall be radial to the curve. Where incident solar radiation is a consideration, a side lot line may vary from the above requirement if the variation will improve solar access.

D. Flag Lots. Flag lots shall be subject to the following development standards:

1. The property line running perpendicular to the access road shall be considered the front yard line and shall be used to calculate front yard setback requirements.
2. The access strip shall be a minimum of 25 feet in width. The improved surface shall be a minimum of 12 feet in width.
3. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of the Zoning Code.
4. The length of the access strip shall not exceed 200 feet.
5. Where two flag lots abut, access shall be via a shared drive wherever possible. The improved surface shall be a minimum of 12 feet in width.

E. General Requirements.

1. Width. Widths of lots shall conform to the standard of the zoning ordinance.
2. Depth. Each lot and parcel shall have an average depth between the front and rear lines of not more than 2½ times the average width between side lines. Widths of lots shall conform to the standards of the zoning ordinance.
3. Area. Lot sizes shall conform to the standards set forth in the zoning ordinance.

90.90.025 Lot Grading. Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

- A. Cut slopes shall not exceed three feet horizontally to one foot vertically.

B. Fill slopes shall not exceed two and one half feet horizontally to one foot vertically.

C. The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purposes intended.

90.90.030 Suitability for Intended Use. All lots and parcels shall be suitable for the purpose of which they are intended to be used. No lot or parcel shall be of such size or design as to be detrimental to the health, safety, energy, or sanitary needs of the residents of the subdivision or partition, or of such lot or parcel, in accordance with the purpose of this chapter.

90.90.035 Building Lines. If special building setback lines are to be established in the subdivision they shall be included in the deed restrictions.

90.90.040 Future Subdivision or Partition of Lots or Parcels. Where the subdivision or partition will result in a lot or parcel one-half acre or larger in size, which in the judgment of the Planning Commission is likely to be further divided in the future, the Planning Commission may require that the location of lot and parcel lines and other details of layout be such that future division may readily be made without violating the requirements of this chapter, and without interfering with orderly extension of adjacent streets. Any restriction of buildings within future street locations shall be made a matter of record.

90.90.045 Platting and Mapping Standards - Drainage. Where land in subdivision or partition is or will be periodically subject to accumulations of surface water, or is traversed by any water course channel, stream, or creek, the Planning Commission may require the applicant to provide for adequate unrestricted drainage over drainage land by dedicating drainage easements. Drainage easements approved by the Planning Commission are established to provide designated areas for surface run-off from private or public land to be collected and flow to an approved outfall location. The easements are designated and platted to prevent future development of the area, which may obstruct the flow-way causing potential flooding. The width and length of the easements shall be determined by the City. All easements shall have clear and adequate access from a public street. All new development must conform with Subchapter 80, Storm Water Management Requirements, and any applicable State and Federal laws.

90.90.050 Platting and Mapping Standards & Railroads.

A. Crossings. Special requirements may be imposed by the Planning Commission, including but not limited to provisions for separation of street and railroad grades, connection with any railroad crossing which will immediately affect the safety of the residents of the subdivision or partition for the protection of such residents and the safety of the general public in accordance with the purpose of this chapter.

B. Subdivision or Partition Adjacent to Right-of-Way. Where the subdivision or partition is adjacent to a railroad right-of-way, and the surrounding economic and physical conditions indicate such property may be used for industrial purposes in the normal growth of the community, all streets shall be located at a sufficient distance

from said right-of-way to allow for reasonable sites for industrial use adjacent to said right-of-way or buffer facilities will be provided adjacent to the right-of-way to minimize conflict between the railroad and adjacent land uses.

90.90.055 Platting and Mapping Standards - Partial Development. Where the subdivision or partition includes only a part of the area owned by the applicant, the Planning Commission may require a sketch of a tentative layout of streets in the remainder of said ownership.

90.90.060 Land for Public Purposes

A. The applicant shall dedicate to the City a tract of land within or adjacent to the proposed subdivision, not less than 6.25 percent of the gross area of said subdivision for public park and recreation purposes. Any tract of land dedicated shall be approved by the City as being suitable and adaptable for park and recreation uses.

B. At the option of the Planning Commission, the City may permit the applicant to pay a sum of money in lieu of dedication of land. Said sum shall equal 13.0 percent of the market value of the undivided land as of the date of final plat approval, as carried on the tax roll or as determined by of the Polk County Assessor. Payment of said funds must be made at the time of approval of the final plat map.

C. All funds collected in lieu of land shall be credited to a public park and recreation development fund which may only be expended by resolution of the City Council for the purpose of acquiring land for park and recreation purposes or for the development of existing park lands.

90.90.065 Submitting Specification. The City shall adopt by ordinance specifications and amendments thereto for construction of streets and alleys, construction of curbs and gutters, dedication of slope easements for streets and alleys, construction of drainage facilities, and construction of pedestrian ways in subdivisions and partitions. Such specifications shall conform to proper engineering standards relevant thereto, and be so devised as to facilitate provision for the health, safety and welfare needs of the City and area affected, in accordance with the purpose of this chapter.

90.90.080 Improvements - Water Supply. All lots and parcels within subdivisions and partitions shall be served by the water system of the City of Independence.

90.90.090 Improvements - Land Surface Drainage. Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the partition or subdivision, or areas affected thereby, and for the preservation of wetlands, of healthful and convenient surroundings and conditions for residents of the subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council.

90.90.095 Improvements - Streets and Alleys. The developer is responsible for installing street lighting spaced horizontally as required by the appropriate utility and having, as a minimum, horizontal 9500 lumen H.P.S. fixtures. All new street light poles shall be metal. The developer is responsible for any initial cost for such poles (one time fee and concrete

footings). The developer will contact and coordinate this work with the appropriate utility. The developer shall grade and pave all streets and alleys in the subdivision or partition to the width specified in this subchapter and provide for drainage of all such streets and alleys, and construct curbs and gutters within the subdivision or partitioning in accordance with specifications adopted by the City Council.

90.90.100 Improvements - Existing Streets. A subdivision or partition abutting or adjacent to an existing road of inadequate width shall dedicate additional right-of-way and/or pavement construction to the width specified in this subchapter. Off-site improvements, such as pavement construction or re-construction of existing street(s) proposed for access to the subdivision, which are inadequate or in failing condition, may be required.

90.90.105 Improvements - Sidewalks. Sidewalks shall be located and constructed in accordance with the provisions of this subchapter. If sidewalks are not to be installed along with streets and required public utilities, the developer shall deposit with the City sums sufficient to install all sidewalks within the subdivision. As sidewalks are installed, funds will be released to the party causing the sidewalks to be installed. The funds released shall not exceed the per linear foot cost paid by the developer or the actual cost of the sidewalk, whichever is less. Any funds remaining after all sidewalks have been installed shall be returned to the developer. Sidewalks shall be installed on all lots, whether developed or not, within two years from the date the final plat is signed.

Subchapter 90.95 EXCEPTIONS AND VARIANCES

90.95.005 Application for Exception or Variance. Application for variance shall be submitted concurrently with submitting a tentative plan to the City for consideration and approval. An applicant may submit an application for variance of any provision of this chapter. Variance procedures and standards shall be subject to the provisions of Subchapter 70 of the Independence Zoning Code.

90.95.010 Exceptions in Case of Large Scale Development. The Planning Commission may modify the standards and requirements of this chapter if the subdivision plat comprises a complete neighborhood unit, a shopping center, a planned unit development, or a planned industrial area. The Planning Commission shall determine whether modifications are detrimental to the public health, safety, and welfare and that adequate provision is made within the development for traffic circulation, open space, and other features that may be required in the public interest.

90.95.025 Streets Exceptions.

A. The creation of streets shall be in conformance with requirements for subdivisions except, however, the Planning Commission shall approve the creation of a street to be established by deed if any of the following conditions exist:

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

2. The tract in which the street is to be dedicated is an isolated ownership on one acre or less.

3. The tract in which the street is to be dedicated is an isolated ownership of such size and condition as to make it impractical to develop more than three lots.

B. In those cases where approval of a street may be given without full compliance with the regulations applicable to subdivision, a copy of the proposed deed shall be submitted to the City at least five days prior to the Planning Commission meeting at which consideration is desired. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Subchapter 90.90 of this chapter, shall be approved with such conditions as are necessary to preserve these standards.

Subchapter 90.100 SUBDIVISION OF A MANUFACTURED DWELLING PARK OR MOBILE HOME PARK

A. Subdivision of an existing manufactured dwelling park shall be approved provided:

1. The park is in compliance with all standards for a manufactured dwelling park or is an approved nonconforming use. A park is in compliance if the City has not issued a written notice of noncompliance on or before July 2, 2001;

2. The tentative subdivision plan does not increase the number of lots approved for the park, change the boundary lines, or setback requirements, or make other development changes; and

3. A plat is prepared and recorded in compliance with all regulations of this ordinance and Oregon Revised Statutes.

B. A subdivision of an existing manufactured home park is not required to meet the minimum lot size, frontage, setback requirements, or street standards of this ordinance or the Independence Zoning Code, with the following exception:

1. New structures located within yards abutting properties outside of the subdivision must meet all setback requirements or be approved for a variance.

C. A subdivision of an existing manufactured home park shall be subject to formation of a homeowners association for continued maintenance of streets and open space areas within the subdivision.

Subchapter 90.105 EXPEDITED LAND DIVISIONS

90.105.010 Expedited Land Division Definition and Approval Criteria.

- A. An expedited land division:
 - 1. Is an action of a local government that:
 - a. Includes land that is zoned for residential uses and is within an urban growth boundary.
 - b. Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.
 - c. Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:
 - i. Open spaces, scenic and historic areas and natural resources; or
 - ii. The Willamette River Greenway.
 - d. Satisfies minimum street or other right-of-way connectivity standards established by the Independence Zoning Code or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.
 - e. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site.
 - 2. Is a land division that:
 - a. Will create 3 or fewer parcels under ORS 92.010; and
 - b. Meets the criteria set forth for an action under paragraph 90.100(A)(1) of this subchapter.
- B. An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.
- C. The provisions of Subchapter 90.100 apply to all elements of the Independence Comprehensive Plan and land use regulations applicable to a land division, including any planned development standards and any procedures designed to regulate:

1. The physical characteristics of permitted uses;
2. The dimensions of the lots or parcels to be created; or
3. Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.

D. An application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions of subsection 90.105.010(A)(1).

90.105.020 Application for Expedited Land Division; Notice Requirements; Procedure.

A. When requested by an applicant for an expedited land division, in lieu of the procedure set forth in the Independence Zoning Code, the City shall use the following procedures for an expedited land division:

1. If the application for expedited land division is incomplete, the City Manager or designee shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
2. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

B. The City shall provide written notice of the receipt of the completed application for an expedited land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property as per type of land division (i.e., subdivision, 300 feet; partitions, 200 feet). The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under Section 90.105.040, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the City or Polk County and whose boundaries include the site.

C. The notice required under subsection 90.100.020(B) shall:

1. State:
 - a. The deadline for submitting written comments;

- b. That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and
 - c. That issues must be raised with sufficient specificity to enable the City to respond to the issue.
 2. Set forth, by commonly used citation, the applicable criteria for the decision.
 3. Set forth the street address or other easily understood geographical reference to the subject property.
 4. State the place, date, and time that comments are due.
 5. State a time and place where copies of all evidence submitted by the applicant will be available for review.
 6. Include the name and telephone number of a local government contact person.
 7. Briefly summarize the local decision-making process for the expedited land division decision being made.
- D. After notice under subsections 90.105.020(B) and (C), the City shall:
 1. Provide a 14-day period for submission of written comments prior to the decision.
 2. Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the City's land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the City:
 - a. Shall not hold a hearing on the application; and
 - b. Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.
 3. Provide notice of the decision to the applicant and to those who received notice under subsection 90.105.020(B) of this section within 63 days of the date of a completed application. The notice of decision shall include:

- a. The summary statement described in paragraph (2)(b) of this subsection; and
- b. An explanation of appeal rights under Section 90.105.040.

90.105.030 Failure to Approve or Deny Application Within Specified Time.

A. Except as provided in subsection B of this section, if the City does not make a decision on an expedited land division with 63 days after the application is deemed complete, the applicant may apply in the Polk County Circuit Court for a writ of mandamus to compel the City to issue the approval. The writ shall be issued unless the City shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of Section 90.100.010. A decision of the circuit court under this section may be appealed only to the Court of Appeals.

B. After seven (7) days' notice to the applicant, the City may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of Sections 90.105.010 to 90.105.050, including the mandamus remedy provided by subsection A of this section, shall remain applicable to the expedited land division, except that the extended period shall be substituted for the 63-day period wherever applicable.

C. The decision to approve or not approve an extension under subsection B of this section is not a land use decision or limited land use decision.

90.105.040 Appeal of Decision on Application for Expedited Land Division; Notice Requirements; Standards for Review; Procedure; Costs.

A. An appeal of a decision made under Sections 90.105.010 and 90.105.020 shall be made as follows:

- 1. An appeal must be filed with the City within 14 days of mailing of the notice of the decision under Section 90.105.020(D), and shall be accompanied by the appropriate fee for costs.
- 2. A decision may be appealed by:
 - a. The applicant; or
 - b. Any person or organization who files written comments in the time period established under Section 90.105.020.
- 3. An appeal shall be based solely on allegations:

- a. Of violation of the substantive provisions of the applicable land use regulations;
- b. Of unconstitutionality of the decision;
- c. That the application is not eligible for review under Sections 90.105.100 to 90.105.050 and should be reviewed as a land use decision or limited land use decision; or
- d. That the parties' substantive rights have been substantially prejudiced by an error in procedure by the local government.

B. The City shall appoint a referee to decide the appeal of a decision made under Sections 90.105.010 and 90.105.020. The referee shall not be an employee or official of the local government. However, if the City has designated a hearings officer under ORS 215.406 or 227.165, the City may designate the hearings officer as the referee for appeals of a decision made under Sections 90.105.010 and 90.105.020.

C. Within seven (7) days of being appointed to decide the appeal, the referee shall notify the applicant, the City, the appellant if other than the applicant, any person or organization entitled to notice under Section 90.105.020(B) that provided written comments to the City and all providers of public facilities and services entitled to notice under Section 90.105.020 and advise them of the manner in which they may participate in the appeal. A person or organization that provided written comments to the City but did not file an appeal under subsection A of this section may participate only with respect to the issues raised in the written comments submitted by that person or organization. The referee may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument. The referee shall provide the City an opportunity to explain its decision, but is not limited to reviewing the City's decision and may consider information not presented to the City.

D.

1. The referee shall apply the substantive requirements of the applicable land use regulations and Section 90.105.010. If the referee determines that the application does not qualify as an expedited land division as described in Section 90.105.010, the referee shall remand the application for consideration as a land use decision or limited land use decision. In all other cases, the referee shall seek to identify means by which the application can satisfy the applicable requirements.

2. The referee may not reduce the density of the land division application. The referee shall make a written decision approving or denying the application or approving it with conditions designed to ensure that the application satisfies the land use regulations, within 42 days of the filing of an appeal. The referee may not remand the application to the City for any reason other than as set forth in this subsection.

E. Unless the City finds exigent circumstances, a referee who fails to issue a written decision within 42 days of the filing of an appeal shall receive no compensation for service as referee in the appeal.

F. Notwithstanding any other provision of law, the referee shall order the City to refund the deposit for costs to an appellant who materially improves his or her position from the decision of the local government. The referee shall assess the cost of the appeal in excess of the deposit for costs, up to a maximum of \$500, including the deposit paid under subsection A of this section, against an appellant who does not materially improve his or her position from the decision of the City. The City shall pay the portion of the costs of the appeal not assessed against the appellant. The costs of the appeal include the compensation paid the referee and costs incurred by the City, but not the costs of other parties.

G. The Land Use Board of Appeals does not have jurisdiction to consider any decision, aspects of decisions or actions made under Sections 90.105.010 to 90.105.050.

H. Any party to a proceeding before a referee under this section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 and 197.855. The Court of Appeals shall review decisions of the referee in the same manner as provided for review of final orders of the Land Use Board of Appeals in those statutes. However, notwithstanding ORS 197.850(9) or any other provision of law, the court shall reverse or remand the decision only if it finds:

1. That the decision does not concern an expedited land division as described in Section 90.105.010 and the appellant raised this issue in proceedings before the referee;
2. A basis to reverse or remand the decision described in ORS 36.355(1); or
3. That the decision is unconstitutional.

90.105.050 Application Fees for Expedited Land Division.

Application fees for Expedited Land Division shall be the same as for subdivisions if more than three (3) lots will be created, and the same as for partitions if less than four (4) lots will be created.

Subchapter 90.110 LOT LINE ADJUSTMENTS

The procedures and requirements in this section apply to the relocation of a common property line between two abutting properties.

90.110.010 Process

A. A lot line adjustment application may be submitted by the property owner,

contract purchaser or an authorized agent of the owner or contract purchaser.

B. A lot line adjustment application is processed as a Type I procedure pursuant to Section 11.002 of the Independence Zoning Code.

90.110.020 Submittal Requirements

- A. In addition to the completed application form, the applicant shall also submit:
1. A map that shows the configuration of each parcel before the proposed adjustment.
 2. A map that shows the configuration of each parcel after the proposed adjustment.

90.110.030 Evaluation Criteria

- A. Approval of the lot line adjustment shall not be granted unless each of the following criteria are met:
1. The number of lots or parcels as large as the minimum lot size in the affected zone is at least the same after the adjustment as before the adjustment.
 2. The number of lots or parcels resulting from the adjustment is the same or less than the number of lots or parcels existing prior to the adjustment.
 3. If a lot or parcel will be split-zoned after the adjustment, each portion of the lot or parcel that is in a separate zone shall meet the minimum lot size for that zone.
 4. All lots or parcels having access to a public or private street before the adjustment must retain access after the adjustment.
 5. The adjustment shall not reduce the street access for any lots or parcels to a size or dimension that does not meet the minimum standards required by the Independence Zoning Code.
 6. The lot line adjustment shall not reduce any required development feature or standard, such as parking, landscaping, or building setbacks, to a size or dimension that does not meet the minimum standards of the Independence Zoning Code.

90.110.040 Final Survey

A. In order to finalize the lot line adjustment process, Oregon Revised Statutes (ORS), Section 92.060(7) requires that the adjustment of a common boundary shall be surveyed and monumented, and a survey, complying with ORS 209.250, shall be filed with the County Surveyor. The survey shall be recorded with Polk County within one

(1) year of the written approval or the decision shall be null and void, with the following exceptions:

1. The survey requirement shall not apply to the relocation of a common boundary of a lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even width along the common boundary (a line is adjusted parallel to its current location with no change in its length); or

2. The survey requirement shall not apply to the sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets, or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.

B. The applicant shall submit a copy of the recorded lot line adjustment survey map to the City within 15 days of recording and prior to issuance of any building permits on the re-configured lots.

SUBCHAPTER 100

ENFORCEMENT

100.001 Responsible Officers

The Zoning Ordinance shall be administered and enforced by the City Manager, or the Manager's designee.

100.002 Building Permit

No building permit shall be issued by the Building Official for any authorized development unless the Manager has determined that the proposed development complies with the provisions of this zoning ordinance and the required development permit has been issued.

100.003 Certificate of Occupancy

No certificate of occupancy shall be issued by the Building Official for any development unless all requirements of this zoning ordinance have been met or until the applicant has provided some written form of assurance acceptable to the Manager guaranteeing the completion of all requirements.

100.004 Stop Work Order

Whenever any work is being done contrary to the provisions of this zoning ordinance, the Manager may order the work stopped by notice in writing served on any persons engaged in the work, and any such persons shall immediately stop such work until authorized by the Manager to proceed. If no persons are engaged in the work at the time such notice is served, or after such service has been effected, the City Manager shall cause the Notice to be posted on the property where the violation has occurred.

100.005 Violations

Use of land in the City of Independence not in accordance with the provisions of this zoning ordinance constitutes a violation. Upon receiving information concerning a violation of this zoning ordinance, the Manager may conduct, or cause to be conducted, an investigation determining whether a violation exists. The Manager may request the assistance of other public agencies and officers in the conduct of such investigations.

The Manager may prepare and deliver to the City Attorney a request for prosecution indicating the location and nature of the suspected violation, applicable code sections, and other information staff may have.

100.006 Notice of Violation

After receiving a report of an alleged violation from the Manager, the City Attorney shall, if he/she determines that reasonable suspicion exists, promptly give notice of the alleged violation by certified first class mail, return receipt requested, or personal service to the owner of record for tax purposes and to the person in charge of the property. Such a notice shall indicate the following:

- A. Location and nature of the violation; and
- B. Provision or provisions of this zoning ordinance which allegedly have been violated; and
- C. Whether immediate enforcement will be sought or if 15 days will be allowed to correct or remove the violation. Immediate enforcement will be sought in a situation involving a health hazard or other nuisance that unmistakably exists and from which there is imminent danger to human life or property; and
- D. The date of the notice shall be the date of personal service of the notice, or if notice is accomplished by first class mail, 3 days after mailing if the address to which it was mailed is within this State and 7 days after mailing if the address to which it was mailed is outside the state. However, a defect in the notice of violation with respect to such matter shall not prevent the enforcement of this zoning ordinance.

100.007 City Attorney to Pursue Enforcement

As soon as the compliance deadline has expired, the City Attorney shall proceed with any legal or equitable action deemed appropriate.

100.008 Penalties

A violation of this zoning ordinance may be the subject of administrative, criminal, civil or other sanctions authorized under ordinance of the city.

100.009 Monetary Penalties

Unless otherwise specified, every violation of the terms of this zoning ordinance is a Class A infraction, punishable by a fine of up to \$500.00. Each day such violation continues shall be considered a separate offense.

100.010 Non-Monetary Penalties and Remedies

In addition to, or in lieu of, monetary penalties, a violation of this zoning ordinance or a permit issued hereunder may subject the violator to mandatory and prohibitory injunctions and orders of abatement. The Municipal Court shall be authorized to issue such process or orders pertaining to the enforcement of this ordinance.

100.011 Tampering with Official Notices

1. No person shall remove or tamper with a notice posted on property pursuant to the provisions of this Zoning Code unless authorized by the Manager.
2. A violation of this provision shall be a Class A infraction.