

CITY OF DURHAM, OREGON

Washington County

Comprehensive Land Use Code

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CHAPTER I - GENERAL PROVISIONS ARTICLE 1 - GENERAL PROVISIONS

SECTION 1 - Short Title - This Ordinance shall be known as the Land Development Code of the City of Durham, Oregon. It shall be known hereinafter as the "Code."

SECTION 2 - Scope - No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless in conformity with regulations herein specified or referred, except as otherwise provided herein. No permit for the construction or alteration of any building shall be issued unless the plans, specifications, and intended use of such building conforms in all respects with the provisions of this Code.

SECTION 3 - Minimum Requirements for General Welfare - The provisions of this Code shall be deemed the minimum requirements for the preservation of the public safety, health, and welfare of the people of the City of Durham, Oregon.

SECTION 4 - Relationship to Comprehensive Development Plan - Administration of this Code shall be such that compliance with the standards provided herein shall constitute compliance with the provisions of the Comprehensive Development plan.

SECTION 5 - Duty of Enforcement - It shall be the duty of the City Recorder to see that this Code is enforced.

SECTION 6 - Repeal - Ordinance 26-72 Zoning Code and all other ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 7 - Severability and Validity - Should any Section, clause or provision of this Code be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this Code as a whole or any part thereof, other than the part declared invalid.

ARTICLE 2 - PLANNING

COMMISSION SECTION 1 City Planning Commission

- A. The Planning Commission is established and constituted as the planning agency of the City of Durham, Oregon.

- B. The Commission shall consist of nine (9) members appointed by the Council, each to serve for a term of four (4) years or until their respective successors are appointed and qualified.
- C. The members of the Commission shall serve without compensation other than reimbursements for duly authorized expenses.
- D. Membership on the Commission shall reflect the geographical areas of the City.
- E. Upon vacancies created by termination, resignation, or removal of Commission members, the Commission shall recommend to the Council one or more persons to serve as a member on the Planning Commission.
- F. At least seven (7) members of the Commission shall be residents of the City. No more than two (2) voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two (2) voting members shall be engaged in the same kind of business, trade, or profession.
- G. The Commission shall elect a chairman and vice-chairman, and may elect other officers, to serve one year terms.
- H. The Council may designate one or more officers of the City to be ex-officio non-voting members of the Commission.
- I. Five (5) members of the Commission shall constitute a quorum. An affirmative vote of five (5) shall be required to recommend approval of legislative amendments to the Comprehensive Development Plan and Code. An affirmative vote of a majority of members present shall be required to approve on quasi-judicial matters.
- J. The Board shall assign space to enable the Commission to transact business and keep its records.
- K. All meetings of the Commission shall be open to the public and be in conformance with administrative procedures herein described.
- L. A member of the Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or a substantial financial interest: The member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which the member is then serving or has served within the previous two (2) years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential conflict of interest shall be disclosed at the meeting of the Commission where the action is being taken.
- M. Members of the Commission may be removed from the Commission under the

following rules:

1. Members may request that they be removed for personal or other reasons. Such requests shall be made to the Council.
2. Unexcused absences from three (3) consecutive Planning Commission meetings, including regular, special, and work sessions, shall constitute nonperformance. An excused absence may be obtained by contacting the Chairman or Secretary of the Board, or City Recorder, at least 24 hours prior to any scheduled meeting.
3. The Commission may, after hearing, recommend the removal of any member for nonperformance of duties or misconduct. Such recommendations shall be made to the Council.

ARTICLE 1 - ZONING

SECTION 1 - Zones - For the purpose of this Code, the territory of Durham, Oregon, is hereby divided into the following zones:

- A. Single Family Residential (SF or SF/DB-PRD)
- B. Multiple Family Residential (MF)
- C. Office Park (OP)
- D. Industrial Park (IP)
- E. Greenway (G)
- F. Greenway Overlay District (GO)
- G. Business Park Overlay (BPO)

SECTION 2 - Zone Boundaries - The zone boundaries of these zones established is shown on the official zoning map of the City of Durham, Oregon, which is hereby made a part of this Code. The zoning map shall be titled: Zoning Map, City of Durham, Oregon. Said official zoning map shall remain on file in the Office of the City Recorder, where copies shall be made available for review.

- A. Zone boundaries are intended to follow property lines, lot lines or center lines of streets and alleys, unless otherwise noted.
- B. Questions concerning the exact location of zone boundary lines shall be clarified by the Planning Commission.

SECTION 3 - Annexation - Areas annexed to the City shall be zoned by the City at the time of annexation and so noted on the official zoning map.

ARTICLE 2 - DEFINITIONS OF WORDS AND PHRASES

SECTION 1 - Definitions - The following words and phrases, when used in this Code, shall have meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "lot" includes the word "plot;" the word "building" includes the word "structure;" and the word "he" means the neutral.

Access - The right to cross between public and private property thereby allowing pedestrians and vehicles to enter and leave property.

Accessory Structure or Use - A structure or use incidental and subordinate in the main use of the property and which is located on the same lot with the main use such as, but not limited to, garages, carports, tool sheds, private greenhouses, utility building, and home occupations.

Adjoining - Contiguous or abutting exclusive of street width. It shall include the terms adjacent, abutting or contiguous.

Alley - A minor way which provides secondary access to a property.

Attached Family Dwelling - A building or structure designed for the occupancy of two or more families, whether related to each other or not.

Basement - A portion of a building which has less than one-half (1/2) of its height measured from finished floor to finished ceiling above the average elevation of the adjoining ground.

Boarding House - A building or premise where lodging is provided to four (4) or more for compensation and/or, where meals are offered for compensation to four (4) or more persons, but in no case not more than nine (9) persons.

Building - A structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind.

Building or Structural Height - The "height of building" shall be deemed to mean the perpendicular distance from the average elevation of the adjoining ground to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the middle height gable between the eaves and ridge of a pitch or hip roof.

Building Line - A line that is adjacent to the front side of a main building and parallel to the front lot line.

Carport - A stationary structure consisting of a roof with its supports and not more than two (2) walls, or a storage cabinet substituting for one (1) of the walls, and used for sheltering a motor home vehicle, boat, or recreational vehicle.

Child Care Facility - A facility providing care for compensation for six or more children during a 24 hour period. This includes: day nursery, day care, drop-in center, after school care, day care group home or other similar unit operating under any name, but not including any facility providing care that is primarily educational, unless provided to preschool child for more than four hours a day.

City - The City of Durham, Oregon.

City Recorder - The City Recorder of the City of Durham.

Commission - The Planning Commission of the City of Durham.

Conditional Use - A land use category in a zoning district for land use which may have

an adverse impact on other land uses within that district. Those uses require special approval and may have conditions attached to their approval so they can be made compatible with surrounding land uses.

Density - The number of residential units per acre of land after subtracting non-buildable land and area required for right-of-way.

Development. - The act of altering real property from its natural state so as to divide the property into units capable of separate ownership or to cause or allow any structure to be placed thereon.

Dwelling, Single Family Detached - A detached building containing one dwelling unit on one legal lot.

Dwelling, Single Family Attached - A building containing one dwelling unit which is attached to another building, but where there exists one legal lot per dwelling unit.

Dwelling, Multiple Family - Two or more dwelling units contained within one building located on one legal lot.

Dwelling Unit - A building or portion thereof providing complete housekeeping facilities for one family, but not a trailer house.

Family - One or two persons with their direct descendants and adopted children living together in a room or rooms comprising a single housekeeping unit.

Floor Area - The area of the building, exclusive of porches and exterior stairs which shall extend to the exterior faces of all walls. Floor area shall include all levels within a structure, including mezzanines and additional stories above the first floor.

Frontage - That portion of the property abutting a street.

Gross Acre - The total area to be considered within a development. This includes all area under common ownership proposed for development which has the same principle

designation; i.e., single-family, multiple family, office park or industrial park, regardless of any other overlay designations.

Home Occupation - A commercial activity conducted within a dwelling unit, provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation;
2. The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not generally more than 1,000 square feet shall be used in the conduct of the home occupation;
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than signs allowed as prescribed in this Code;
4. No home occupation shall be conducted in any accessory building;
5. No traffic shall be generated by such home occupation in greater volume than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall meet off-street parking requirements as prescribed in this Code, providing that such parking shall not locate in the front yard; and
6. No equipment or process shall be used in such home occupation which creates noise, vibrations, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family detached dwelling. In the case of electrical interference, no equipment or process shall be used which created visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Hospital, Animal - A building, or premises for the medical or surgical treatment of domestic animals or pets, including dogs, cats and veterinary hospitals.

Legislative Land Use - See Chapter VI, Article 1, Definition.

Lot Area - The total horizontal area calculated in square feet in property lines of the lot.

Lot Coverage - The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.

Lot, Corner - A lot abutting on two intersecting streets other than an alley.

Lot Depth - The lot depth is the mean average distance between the front lot line and rear lot line measured within the lot boundaries.

Lot Line - The property line bounding a lot.

Lot Line, Front - The lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.

Lot, Key - A lot, the side of which abuts the rear line of one or more adjoining lots.

Lot Line, Rear - Any boundary line opposite and most distant from a front line and not intersecting a front lot line. In the case of an irregular, triangular, or other shaped lot, a line ten feet (10') in length within the lot parallel to and at a maximum distance from the front lot line.

Lot Line, Side - Any lot line not a front or rear lot line.

Lot, Through - Any lot, except a corner lot, that abuts two or more streets.

Lot Width - The average horizontal distance between the side lot line, ordinarily measured parallel to the front lot line.

Non-Conforming Use - A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Office, Construction - An enclosed structure used for a business office or storage of construction tools or supplies during the period of construction of residential, commercial, or industrial structures by the owner, subdivider, contractor, or their authorized agents and representatives.

Owner - An owner of property or the authorized agent of an owner.

Parking Space - A rectangle not less than eighteen (18) feet long and nine (9) feet wide together with maneuvering and access space required for a standard American automobile to park.

Planned Residential Development - A residential development proposal which satisfies the design criteria as specified in Chapter II, Article 3, Section 1 of this Code.

Premises - A lot with or without buildings.

Professional Type Services - A "professional type" service shall include activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist, teacher, real estate & insurance sales.

Recreational Vehicle - A vacation trailer or self-propelled vehicle or structure equipped with wheels for highway use which is intended for human occupancy and is being used for vacation and recreational purposes, and is equipped with plumbing, sink or toilet, and has a floor area of less than 220 square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures and a bath or toilet rooms.

Residential Home - A residence for five or fewer unrelated physically or mentally handicapped persons and for staff persons who need not be related to each other or to any other home resident.

School, Private - Includes private kindergartens, nurseries, day care facilities and play schools.

Screening - Sight-obscuring fence, or sight-obscuring planting.

Sign - A presentation or representation, not in an enclosed building and other than a house number which, by words, letters, figures, designs, pictures, or colors is publicly displayed so as to give notice relative to a person or a business, a service, an assemblage, a solicitation, or a request for aid or other type of advertising. This includes the board, metal, or surface upon which the sign is painted, included, or attached. Each display surface of a sign shall be considered a sign. Signs shall be subject to the Design Review process described herein.

Street - A public right-of-way for vehicle or pedestrian use.

Street Frontage - The area contiguous to and parallel to a public right-of-way and affording direct access to the public thoroughfare.

Structure - Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.

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

Yard - An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Code.

Yard, Front - An open space between side lot lines and measured horizontally from the front lot line at right angles to the front lot line to the nearest point of the building.

Yard, Rear - An open space extending between side lot lines and measured horizontally at right angles from the rear lot line of the nearest point of a main building.

Yard, Side - A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the building.

ARTICLE 3 - ZONING DISTRICTS

SECTION 1 Single Family Residential District (SF) - The purpose of the SF District is to provide a supply of land for single family residential use. The SF District is intended to be applied to those areas where large lot single family residential development has

substantially committed the land for that use, and where surrounding land use activities are not expected to conflict with a low density residential environment.

A substantial area of the Fanno Creek Greenway is included in the SF District. It is not intended that the Greenway be developed for residences, but that residential developments incorporating Greenway land would cluster housing on buildable land outside of the Greenway area while ensuring that the Greenway becomes part of the City's open space network.

Density bonuses are allowed in certain areas (designated "SF/DB-PRD" on the zoning map) where a significant amount of vacant buildable land exists. These areas shall be allowed a density bonus of 30% if developed as a planned residential development in accord with the following design criteria:

A. Common open space (excluding the Greenway) which meets the following guidelines:

1. Helps to preserve remaining upland wooded areas for ecological and recreational benefits; and
2. contains a minimum area equal to 30% of the "net buildable acre", which consists of 43,560 square feet of residentially designated buildable land, after excluding present and future rights-of-way, restricted hazard areas, public open spaces and restricted resource protection areas;

B. Provision of recreational improvements as required by Chapter II, Article 3, Sub section A.4.;

C. Dedication of Greenway (if applicable);

D. Minimum site area of five net buildable acres;

E. Variable lot sizes not less than 5,000 sq. ft.;

F. Provision for modified yard setbacks, including allowance for zero side lot line housing in addition to the following yard setbacks:

1. 20 ft. front yard;
2. 5 ft. side yard;
3. 15 ft. corner yard
4. 15 ft. rear yard.

Table 1 shows those uses which are permitted outright, permitted by Conditional Use

Permit, and permitted by Temporary Permit in the SF District. Table 2 shows development standards for the SF District.

SECTION 2 - Multiple Family Residential District (MF) - The MF District is intended to be applied either where such development has substantially occurred or where such development is desirable to occur owing to the availability of public services and separation from potentially conflicting land use activities. Table I shows those uses which are permitted outright, permitted by Conditional Use Permit, and permitted by Temporary Permit in the MF District. Table 2 shows development standards for the MF District.

TABLE 1

Uses Permitted Outright, By Conditional Use Permit,
and by Temporary Permit in Residential Districts

| | Single Family | Multiple Family |
|--|---|--|
| Uses Permitted Outright | Single Family Detached and Attached | Single Family-Detached |
| | Home Occupation Residential Home | Single Family Attached Dwelling Residential Home Multiple Family Units |
| Uses permitted by Conditional Use Permit | Child Care Facility as part of a dwelling Community Utility Structure Greenhouses | Child Care Facility Community Utility Structure Home Occupation Greenhouses |
| | | |

| | | |
|------------------------------------|--|--------------------------------------|
| Uses Permitted by Temporary Permit | Real Estate and Construction Offices in Conjunction with PRD Occupant Owned Open Storage of: a. More than two (2) licensed vehicles b. Any motorized vehicle not in running condition c. Vehicles regulated by Public Utilities Commissioner | Real Estate and Construction Offices |
|------------------------------------|--|--------------------------------------|

TABLE 2

Development Standards for Residential Districts

| STANDARDS | SINGLE FAMILY | MULTIPLE FAMILY |
|--|------------------------------------|-------------------------|
| Density | Variable | 16 Units per gross acre |
| Minimum lot size | 0,000 square feet w/o PRD approval | variable |
| Minimum Yards: | | |
| Front | 30 feet | 30 feet |
| Side | 10 feet | 10 feet |
| Rear | 20 feet | 15 feet |
| Corner | 20 feet | 20 feet |
| Building Height | 35 feet | 35 feet |
| Minimum Lot Frontage on a Public Street (non-Cul-de-sac) | 40 feet | 60 feet |
| Minimum Lot Frontage on a Cul de-sac Street | 20 feet | 40 feet |
| Services Required: | | |
| Sewer | Required | Required |
| Public Water Supply | Required | Required |
| Storm Drainage Features | Required | Required |
| Development Review Process | Required | Required |

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| Recreational Allocation per Sub-Section A.4. & approved by Design Review Board | Subdivision Only | Required |
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SUB-SECTION A. - Supplemental Standards Applicable to All Residential Districts:

1. Projections into Yards:

The following projections shall be allowed provided they do not conflict with public utility easements:

- a) Cornices, eaves, belt courses, sills, canopies, or other similar features not including bay windows or vertical projections, may extend or project into a required side yard not more than two (2) inches for one (1) foot of width of such side yard and may extend or project into a required rear or front yard not more than thirty (30) inches. Fireplace chimneys may also extend into a required front, side, or rear yard not more than twenty (20) inches provided the width of such yard is not reduced to less than three (3) feet.
- b) Open porches or balconies, not more than thirty (30) inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four (4) feet and may extend into a required front yard not more than thirty (30) inches.
- c) A fence, lattice work, screen, or wall, not more than six (6) feet in height may be located in any required yard, unless the adjoining land use is not residential, in which case maximum height may be regulated by the Planning Commission under application for planned development or variance.

2. Corner Vision:

- a) Corner lots shall have no sight obstruction between three (3) feet and ten (10) feet in height measures from street grade located closer than twenty (20) feet from the street corner in any direction.

3. Accessory Height:

- a) Chimneys, radio and television aerials may extend about thirty-five (35) feet to a maximum height of fifty (50) feet.

4. Recreational Allocation:

For purposes of implementing the policies of the Durham Plan, all subdivisions and multi-family development proposals, excluding planned residential developments, shall allocate at least five percent (5%) of the gross site area for recreational use. Subdivisions, multi-family development proposals, and planned residential developments shall pay a systems development charge for public parks in an amount determined by City Council.

The allocation of land for recreational use and a systems development charge will be required in addition to a dedication of any land designated as part of the Greenway network as shown in the Durham Plan.

Improvements on the land which is allocated for recreational use may be determined by the Design Review Board, provided that such improvements cost not more than the amount of the systems development charge, which will provide the funding source for said improvements.

The City shall assume management responsibility of recreational land if such land is included in the Durham Plan as part of the City's Greenway network. The City may assume management responsibility of other recreational land outside of the designated Greenway network.

SECTION 3 - Office Park District (OP)

- A. Purpose and Intent - The purpose of this district is to provide for professional offices in locations adjacent to or across the street from residential districts, commercial districts of adjoining cities, and/or industrial parks. Office uses are more appropriate in such areas than commercial and retail activities because office uses tend to be more compatible with residential activities. In addition to providing opportunities to broaden the local economic base, this district is intended to attract a specialized office market, as described in the Comprehensive Development Plan. Finally, this district is intended to be selectively applied to those areas where residential uses are buffered from adjoining gravel pits and/or major arterials.
- B. Permitted Uses - No building, structure, or land shall be used except for the following uses.
1. Offices, studios, or clinics of accountants, architects, artists, management consultants, and physicians or other practitioners of the healing arts.
 2. Offices of administrative, editorial, educational, financial, government, insurance, real estate, religious, research, scientific or statistical organizations whose activities are such that few visitors, other than employees, have reason to come to the premises.
 3. Other office or related type of uses found similar to the above by the Planning

Commission.

C. Development Standards

1. Lot Size - The following requirements shall apply when partitioning or subdividing land:
 - a) The minimum lot size shall be 10,000 square feet.
 - b) The minimum average lot width shall be 80 feet.
 - c) The minimum width at the building line shall be 80 feet.
 - d) The minimum lot width at the street shall be 80 feet.

2. Yard Requirements -
 - a) Front Yard - Minimum setback shall be 20 feet.

 - b) Side Yard - Minimum setback shall be 10 feet. On a corner lot, the minimum side yard requirement for the side(s) abutting the street shall be 20 feet.

 - c) Rear Yard - Minimum setback shall be 20 feet.

3. Structure Height - The maximum height of any structure shall be thirty-five (35) feet.

4. Floor Area Ratio - Maximum rentable floor space to ground area ratio shall be thirty-five (35) percent.

5. Employee Density - Not more than 40 employees per gross acre of land included in an approved office park planned development.

6. Traffic Generation Limit - Not more than 200 vehicle trips per day generated per gross acre of land included in an approved office park development.

7. Landscaping, Enclosure and Screening - Shall be as required by determination of Design Review Board, plus not less than twenty (20) percent of the total project site area shall be landscaped.

8. Pedestrian ___ Circulation - Internal pedestrian circulation shall be provided to accommodate safe and convenient access from parking areas to buildings, between buildings, and including public street connection.

9. Building Orientation - New buildings located on a transit street shall have at least one public entrance facing the transit street.

10. Development Review Process - Office parks shall be approved in accordance with

the development review process described in Article 4.

SECTION 4 - Industrial Park District

- A. Purpose and Intent - The purpose of these districts is to provide for clean, non-polluting industrial and commercial uses in pleasantly landscaped park-like settings. Industrial parks designated are intended to conform with respective location criteria described in the Comprehensive Development Plan.
- B. Permitted Uses - No building, structure or land shall be used in this district except for the following uses:
1. Offices for executive, administrative and professional uses related to the sale or service of industrial products.
 2. Laboratories: Testing, medical, dental, photo or motion picture.
 3. Processing, assembly, packaging, or other treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries.
 4. Processing, assembly, packaging and other treatment of such products as small hand tools, optical goods, hearing aids, and scientific instruments or equipment.
 5. Processing, assembly, packaging and other treatment of small products manufactured from the following previously prepared or semi-finished materials: bone, hair, fur, leather, feathers, textiles, plastics, glass, wood, paper, cork, sheet metal, wire, tobacco, rubber, precious or semi-precious stones and similar small products.
 6. Assembly and packaging of small electrical appliances, such as radios, televisions, phonographs, offices machines and including the manufacture of small parts for such appliances.
 7. Manufacture of pottery and ceramics, using only previously pulverized clay.
 8. Manufacture of musical instruments, toys and novelties.
 9. Molding of small products from metal or plastic.
 10. Sales of industrial hand tools, industrial supplies such as safety equipment and welding equipment, which are products primarily sold wholesale to other industrial firms or workers.
 11. Eating facilities as part of an approved industrial park planned development.

12. Warehousing related to the above uses, and warehousing for merchandise or goods normally sold or owned in the office park or residential districts, but excluding direct sales to consumers from such warehouses.
13. Trade or industrial schools.
14. Publishing, printing and bookbinding.
15. Permanent dwelling unit for watchman and family.
16. Other similar uses approved by the Planning

Commission. C. Development Standards for Industrial Park

Districts

16. Lot Size - The following requirements shall apply when partitioning or subdividing land:

- a) The minimum lot area shall be 35,000 square feet.
- b) The minimum lot width shall be 50 feet.
- c) The minimum average lot width at the building line shall be 120 feet.
- d) The minimum lot width at the street shall be 120 feet.

2. Yard Requirements

- a) Front Yard - Minimum setback shall be 30 feet. Where the front yard is across the street from a residential district, minimum setback shall be 50 feet.
- b) Side Yard - When the side yard is across the street from a residential district, the minimum side yard shall be 50 feet. Otherwise side yard setback shall be determined by the Planning Commission as part of an industrial park planned development.
- c) Rear Yard - When the rear yard is across the street from a residential district, the minimum setback shall be 30 feet. When the rear yard is adjacent to a residential district the minimum rear yard shall be 50 feet. Otherwise, rear yard setback shall be determined by the Planning Commission as part of an industrial park planned development.
- d) Corner Lot Yards - Setback shall be determined by the Planning Commission as part of an industrial park planned development.

- e) Off-street parking may be allowed within any required yard, provided that where the yard is across the street from or adjacent to a residential district, parking shall be screened by landscaping and/or fencing as required as part of an approved industrial park planned development.
- f) No spur rail trackage shall be permitted within 200 feet of an adjacent residential district.
- g) No yards are required where side or rear property lines abut a railroad right-of-way or spur track.

3. Landscaping, Enclosure, and Screening

- a) Properties of these districts abutting or across the street from a residential district shall provide and perpetually maintain a dense evergreen landscape buffer between the districts, as approved as part of an industrial park planned development.
 - b) All yards shall provide lawn and/or live ground cover and/or shrubs and shall be perpetually maintained in a manner providing a park-like character to the property.
 - c) Fencing shall be provided in accordance with requirements of an approved industrial park planned development.
 - d) Not less than twenty (20) percent of the total project site area shall be landscaped.
4. Pedestrian Circulation Internal pedestrian circulation shall be provided to accommodate safe and convenient access from parking areas to buildings, between buildings, and including public street connection.
5. Building Orientation - New buildings located on a transit street shall have at least one public entrance facing the transit street.
6. Structure Height - No structure within these districts shall exceed a height of 40 feet.
7. Floor Area Ratio - The maximum rentable floor space to ground area ratio shall be thirty-five (35) percent.
8. Employee Density - Not more than 40 employees per gross acres of land included in an approved industrial park planned development.
9. Traffic Generation Limit - Not more than 100 vehicle trips per day generated per gross acre of land included in an approved industrial park development

10. Environmental Standards

- a) Noise
 - 1) Current standards must be followed as set forth the Department of Environmental Quality.
 - 2) Sound levels shall be measured with a sound level meter and approved and calibrated by the Oregon Department of Environmental Quality.
 - 3) Devices which are maintained and utilized solely for warning are excluded from these regulations
 - 4) Noise created by highway vehicles, trains and aircraft is excluded from these regulations.
- b) Vibration - No vibration, other than that caused by highway vehicles, trains, and aircraft shall be permitted which is discernible without instruments at any point on the property line.
- c) Smoke and Particulate Matter - Smoke and particulate matter shall comply with DEQ standards.
- d) Odors - The emission of objectionable odors detectable at any point along the property line shall comply with DEQ standards.
- e) Heat and Glare
 - 1) Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.
 - 2) Exterior lighting shall be directed away from adjacent non-industrial park properties.
 - f) Stored Materials - All materials, including wastes, shall be stored in a manner which will not attract or aid the propagation of vectors.
 - g) Liquid Waste Materials - No liquid waste materials shall be disposed onto the site or into adjacent drainage ditches, creeks or other natural waterways in a manner to cause harm to flora or fauna.

11. Development Review Process - All industrial park developments shall be approved in accordance with the development review process described in Article 4.

SECTION 5 - Greenway District (G)

- A. Purpose and Intent - The purpose of this District is to protect and preserve fish and wildlife habitat, natural water storage areas, floodplains and drainage way areas and other Greenway areas by discouraging or prohibiting incompatible uses except in those instances where findings may properly be made by the Planning Commission

or City Council allowing limited use of such area.

- B. Uses - Permitted uses, prohibited uses and activities, non-conforming uses, special permits or exceptions, and standards for permitted structures within this District shall be regulated through the procedures described in Chapter V -Greenways.

SECTION 6 - Greenway Overlay District (OG)

- A. Purpose and Intent - The purpose of this District is to allow the incorporation of areas designated for Greenway in the Comprehensive Development Plan into a residential development. Where used in conjunction with a residential district, the district shall be known as either Greenway Overlay /Single Family (SFG) or Greenway Overlay/Multiple Family (MFG) District.
- B. Uses - Permitted uses, prohibited uses and activities, non-conforming uses, special permits or exceptions, and standards for permitted structures within this District shall be regulated through the procedures described in Chapter V - Greenways.

SECTION 7 - Business Park Overlay District

- A. Purpose and Intent - The purpose of this overlay district is to provide a flexibility of uses and high quality design in conjunction with the provisions and intent of the Office Park (OP) and Industrial Park (IP) Districts, in order to promote the development of offices, research and development institutions, and certain specialized, non-nuisance manufacturing and service establishments within a planned, park-like setting.

B. Definitions

Business Park - A planned development in the Office Park (OP) or Industrial Park (IP) District, which has following main features:

1. A single lot or contiguous lots continuously controlled and administered by a single entity or an association of unit owners;
2. Development governed by a master plan which ensures internal compatibility of uses and activities as well as compatibility with adjacent uses;
3. Regulation of users by restrictive covenants that ensure a high standard of design and development.

Primary District - The principal zoning district which is combined with this overlay district, i.e., either Office Park (OP) or Industrial Park (IP).

Flex Building - A building designed with load bearing walls located primarily on its perimeter. This construction technique allows the use of movable and temporary walls within the building and hence a flexible use of a permanent structure.

C. Permitted Uses - Business Park uses shall be conducted entirely within a building, and the following uses are permitted:

1. Business and professional offices which adhere to the traffic generation standards of the Primary District;
2. Research and development activities;
3. Trade or industrial schools which serve less than 50 occupants;
4. Manufacturing, fabricating, processing, assembly, packaging and storage of medical equipment, communications equipment, electronic components, computer equipment, scientific instruments, or related, small products from previously prepared or semi-finished materials;
5. Fabricating, assembly, packaging and storage of small products from previously prepared or semi-finished materials, excluding bone, hair, fur, feathers, wood, sheet metal, paper, cork, wire, tobacco, and rubber;
6. Service and repair of professional and technical equipment;
7. Medical and dental laboratories;
8. Business services such as employment, secretarial, security, mail-order, and janitorial services;
9. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing which utilize previously prepared materials and products;
10. Radio and television studios, excluding transmission towers;
11. Other uses as permitted in the Primary District, except as may be specifically prohibited under sub-paragraph D of this section.

D. Prohibited Uses - All uses not permitted by sub-paragraph C of this section are hereby prohibited, and specifically include:

1. Retail trade;
2. Wholesale and distribution activities not associated with a permitted use;

3. Automotive repair services;
4. Rental equipment services;
5. Manufacturing involving raw materials which have not been previously prepared, refined, or processed and require bulk storage;
6. Outdoor business activities;
7. Fabricating, processing, assembly, packaging, or any kind of manufacturing of automotive, truck, trailer, or recreation vehicle parts and materials, including the maintenance or repair of same.

E. Development Standards

The development standards of the primary district shall apply, except for the following standards, which shall supersede:

1. Minimum Size of Site
 - a) The minimum size of a Business Park development site shall be 3 acres.
 - b) The minimum lot depth shall be 200 feet.
2. Yard Requirements - The yard requirements as specified by the base zoning district shall apply to this District.
3. Floor Area Ratio - The maximum rentable floor space to ground area ratio shall be thirty-five (35) percent.
4. Landscaping - Not less than twenty (20) percent of the total site area shall be landscaped in a manner which provides a park-like character, including the following provisions:
 - a) Planting berms and mounds located along public street frontages and permitting suitable tenant identification from the street;
 - b) Preservation of existing mature tree stands wherever possible;
 - c) Landscaping located in all yard areas, around buildings, and in parking lot areas.
 - d) Dense evergreen plantings to screen and buffer contiguous residential uses.
5. Pedestrian Circulation - Internal pedestrian circulation shall be provided to accommodate safe and convenient access from parking areas to buildings,

between buildings, and including public street connection.

6. Environmental Standards - The environmental standards specified under Section 4.C.8., Article 3, chapter II shall apply to this District.

7. Off-Street Parking - The minimum parking ratio for Business Park developments shall be 3.2 parking spaces per 1,000 square feet of gross floor area.

F. Development Review and Design Review Processes - The provisions of Article 4, Chapter II, Development Review Process, and Article 2, chapter IV, Design Review Board, shall apply to development proposals regulated under this district. In addition, the following design features shall be considered in reviewing a Business Park development proposal:

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1. Building Features

- a) Utilization of flex buildings for Business Park developments.
- b) Building design containing glass window area five (5) feet or more in height and covering at least 50% of the lineal wall surface, and orientation of said window area should be facing a public street whenever possible.
- c) High quality and aesthetic building materials which will be similarly applied to each building in the proposed development.
- d) Location of loading docks and doors located to the side and rear of the building not facing a public street.
- e) Buildings located on a transit street shall have at least one public entrance facing the transit street.

2. Signing Features

- a) "A comprehensive sign program which controls on-premise signs.
- b) A coordinated graphics system that identifies businesses and communicates information in a distinctive and aesthetically pleasing manner.
- c) Sign size limited to small-scale dimensions.
- d) Sign height conveying a low profile appearance, with building signs not to

exceed the level of the roof line.

e) Signing not to be internally illuminated.

G. Applicability - The provisions of this overlay zone shall apply only to the Office Park (OP) and Industrial Park (IP) Districts.

ARTICLE 4 - DEVELOPMENT REVIEW PROCESS

SECTION 1: Scope - The development review process shall be applied to all applications for development resulting in the creation of a planned residential development, subdivision, multi-family development, office park, business park or industrial park.

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SECTION 2: Preliminary Development Plan and Program - The applicant shall submit a preliminary development plan and program to the Planning Commission for approval in principle. This preliminary development plan and program shall include the following elements:

A. Site analysis and survey showing the following items:

1. Location of the proposed development by Section, Township and Range, and a legal description sufficient to define the location and boundaries of the proposed development;
2. Property dimensions;
3. Contour lines related to some established bench mark or other datum as approved by the City Engineer with intervals at a minimum of two (2) feet for slopes up to five (5) percent and five (5) feet for slopes over five (5) percent;
4. Location and direction of existing water courses;
5. Natural features including type and location of all existing trees over five (5) inches in diameter, floodplains, or steep slopes over twelve (12) percent.
6. Existing uses of the property, including location of all existing structures on the property;
7. Easements, showing location, width, and purpose.

B. Project site plan showing the following items:

1. Vicinity map showing the subject property, adjacent properties and zoning districts within a 1,000 feet of the proposed development;
2. Date, north point, and scale;
3. Location, widths and names of all existing or platted streets or other public ways within or adjacent to the development, easements, railroad rights-of-way, including dedication of additional right-of-way for existing street widening;
4. Proposed streets or other ways showing location, widths, names, approximate grades, and approximately radii of curves;
5. Access, parking, loading and circulation pattern for vehicles, bicycles and pedestrians, including typical dimensions;
6. Location, dimensions, and setbacks of proposed buildings and accessory structures;
7. Location and dimensions of proposed landscaped areas including type and location of existing trees to be preserved with the development;
8. Location and dimensions of land to be dedicated to the City as part of the City's Greenway and recreation policies of the Comprehensive Plan, including any improvements proposed.
9. Site data listing square footage and percentage of land area allocated to building coverage, landscaping, and parking/loading/driveways; plus number of proposed parking spaces including handicapped parking;

C. Written narrative which describes the proposal including supportive information which address the following elements:

1. Plan Elements
 - a) Proposed land uses and densities of population or employees;
 - b) Building height and size;
 - c) Traffic impact analysis;
 - d) Impact on public facilities and services, including but not limited to schools, water supply, sanitary sewers, storm drainage, fire protection, and crime prevention;

e) Parks, playgrounds, open spaces.

2. Program Elements

a) Market assessment of proposed use;

b) Proposed ownership pattern;

c) Proposed operation and maintenance;

d) Contribution to the local economic base;

e) General timetable of development;

f) Project design team, i.e., planner, architect, engineer, landscape architect, arborist, etc.

SECTION 3: Review of Preliminary Development Plan & Program at Public Hearing -
The application for development review shall be considered by the Planning Commission in accordance with provisions for a quasi-judicial public hearing.

SECTION 4: Approval in Principle of Preliminary Development Plan and Program; Findings

A. The Planning Commission shall review the preliminary development plan and program for consistency with the intent of the Comprehensive Land Use Plan and pertinent standards and requirements as prescribed in the Comprehensive Land Use Code. An approval or denial of an application shall be based upon substantial evidence in the record that addresses the Comprehensive Plan and Code. Information provided in accordance with "Program Elements", as outlined in Section 2.C.2. above, shall not be used to deny an application. Except as provided in (B) below, the Commission may approve in principle, including conditions, the preliminary development plan and program for referral to the Design Review Board. The Commission may provide the Board with direction in resolving potential problems that may have been brought to the Commission's attention.

B. In making its decision, the Planning Commission shall include findings supporting its action. These findings shall be based solely on evaluating the elements as outlined in Section 2 above, in relation to the Comprehensive Plan and Code. If the application is denied, the Commission shall specify how it does not comply with the Comprehensive Plan and Code. Denial shall not be based on detailed design aspects of the project, such as architectural or landscape features, which will be evaluated by the Design Review Board.

SECTION 5: ___ Referral of Approved Preliminary Development Plan and Program to

Design Review Board - After the preliminary development plan and program have been approved in principle, the Planning Commission shall refer the application to the Design Review Board for consideration of project design details as provided under Chapter IV, Article 2 of this Code.

SECTION 6: Approval in Principle of Preliminary Development Plan and Program not to Mean Approval of Preliminary Subdivision Plat - In accordance with the subdivision provisions of this Code, only the tentative sketch of a subdivision proposal may be approved in principle as the preliminary development plan and program. Approval of the tentative sketch does not result in the approval of the preliminary subdivision plat.

SECTION 7: Approval in Principle of Stages - In the event the applicant requests that the planned development be divided into two or more stages, the Planning Commission may, if it approves of the preliminary development plan and program, designate that future stages will be reviewed at some later date, subject to the provisions of the development review process. Approval of one stage does not necessarily mean approval of subsequent stages. The Commission may attach conditions to future stages and require that the conditions be recorded as CC&R's affecting the property.

SECTION 8: Final Development Plan and Program - The recommendations from the Design Review Board shall be forwarded to the Planning Commission in the form of a final development plan and program, which includes all plans, drawings, design revisions and conditions of approval as reviewed by the Board and deemed appropriate for the proposed development.

SECTION 9: Review of Final Development Plan and Program at Public Hearing - The final development plan and program shall be reviewed by the Planning Commission in accordance with provisions for quasi-judicial public hearing. Notice of Public Hearing shall be given in accordance with Chapter VI, Article 2, Section 3C.

SECTION 10: Decision on Final Development Plan and Program; Basis for Decision

- A. The Planning Commission shall either approve with or without conditions, or deny the final development plan and program. If the Commission's decision is to deny the application, then specific findings shall be prepared in support of this decision. If the Commission's decision coincides with the Design Review Board's recommendations, then the Board findings may be used by the Commission in making its decision. Additional findings may also be prepared by the Planning Commission.
- B. An approval or denial of a final development plan and program shall be based upon substantial evidence in the record and/or new testimony which address the pertinent standards and criteria set forth in the applicable provisions of the Comprehensive Plan and this Code.

ARTICLE 5 - OFF-STREET PARKING AND LOADING

SECTION 1 - General Requirements for Parking Lots - A parking lot, whether an accessory or principle use, intended for the parking of four or more motorized vehicles, shall comply with the following:

- A. Areas used for standing or maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid the flow of water onto pedways and bikeways, or onto neighboring property.
- B. Except for parking to serve residential uses, parking areas adjacent to or within residential districts or uses shall be designed to minimize disturbance of residents.
- C. Artificial lighting, which may be provided, shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling, or any public right-of-way in such manner as to impair the use of such way.
- D. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.
- E. Groups of more than four parking spaces shall be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- F. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and the maximum safety of pedestrians and vehicular traffic on the site.
- G. Parking bumpers shall be so provided as to prevent cars from encroaching on the public right-of-way or obstructing its use.

SECTION 2 - Access and

Egress A. Provision and

Maintenance

1. The provision and maintenance of access and egress shall be required of all developments and shall be approved by the Planning Commission prior to the issuance of any building permit. Should a use change requiring increased access and egress requirements, such change in use shall not be allowed until the Planning Commission approves a plan for providing adequate provision and maintenance of access and egress.
2. Unless the required access and egress is dedicated to public use by permanent

easement or deed, the building official shall not issue a building permit until the City Attorney has been presented with satisfactory legal evidence in the form of deeds, easements, leases, or contracts to establish access and egress for the duration of the occupancy or use for which access and egress are required. Copies of said deeds, easements, leases or contracts shall be placed on permanent file with the City Recorder.

3. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the Planning Commission of adequate provision and maintenance of access and egress, and provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts to establish joint use. Copies of said deeds, easements, leases or contracts shall be placed on permanent file with the City Recorder.
4. All access and egress shall connect directly with public streets.
5. Vehicular access for residential use shall be brought to within fifty (50) feet of the ground floor entrances or the ground floor landing of a stairway, ramp or elevator leading to dwelling units.
6. Required sidewalks shall extend from the ground floor entrances or the ground floor landing or stairs, ramps or elevators to the sidewalk or curb of the public street or streets which provide the required access and egress.
7. To afford safe pedestrian access and egress for office park, industrial park and multiple family developments within the City, six-foot (6') wide sidewalks shall be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for commercial or industrial development. When the sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grades and alignment established by the City Engineer.
8. The standards set forth in this Article are minimum standards for access and egress, and may be increased by the Planning Commission in any particular instance where the standards provided herein are deemed insufficient.

B. Minimum Access Requirements for Residential Use

1. Access and egress for single family residential uses shall be paved to a minimum width of ten (10) feet. Maximum driveway widths shall not exceed eighteen (18) feet or thirty-five (35) percent of the lot frontage, whichever is greater, but in no case more than thirty (30) feet. For the purposes of this section, driveway widths shall be measured at the property line.

2. Access and egress for multiple family residential uses shall not be less than shown on the chart on the following page:

| Dwelling Units | Minimum Number Required | Minimum Width | Additional Standards |
|-----------------------|--------------------------------|----------------------|--|
| 2 | 1 | 20' | Hard surface pavement over 80% of required access width. No sidewalks or curbs required. |
| 3-19 | 1 or 2 (one-way) | 30' 20' | Hard surface pavement over 80% of required access width. Five foot sidewalks, one side only, no curbs required. |
| 20-49 | 1 or 2 (one way) | 30' 20' | Hard surface pavement over 80% of required access width. Five foot sidewalks, one side only, no curbs required. |
| Over 50 | 1 or 2 (one way) | 40' 30' | Hard surface pavement 32' wide. Five foot sidewalks, one side only, no curbs required. |

C. Minimum Access Requirements for Office and Industrial Parks -Access and egress for office and industrial parks shall not be less than shown on the chart on the following page:

| Parking Spaces Required | Minimum Number | Minimum Width Standards | Additional Standards |
|--------------------------------|-----------------------|--------------------------------|--|
| 1-99 | 1 | 30' | Hard surface pavement over 80% of required access width. Five foot sidewalks, one side only, no curbs required. |
| Over 100 | 2 | 30' | As required by Planning Commission |

D. One-Way Access and Egress - When approved by the Design Review Board, one-

way access and egress may be used to satisfy requirements of office and industrial parks. Hard surface pavement of one-way drives shall not be less than sixteen (16) feet.

E. Driveway Standards

1. Unless otherwise provided herein, maximum driveway width shall not exceed forty (40) feet.
2. No driveways shall be constructed within five (5) feet of an adjacent property line except when adjacent owners elect to provide joint access to their properties.
3. No driveways shall be allowed within thirty (30) feet of an intersecting street right-of-way.

F. General Parking Standards - Except as otherwise approved by the Planning Commission, minimum parking spaces shall be provided in accordance with the following:

1. Two (2) parking spaces for each dwelling unit in any residential development.
2. Office Uses:
 - a. Medical/dental offices @ 5.5 parking spaces per 1,000 square feet of gross floor area.
 - b. Governmental offices @ 3.75 parking spaces per 1,000 square feet of gross floor area.
 - c. General offices @ 3.5 parking spaces per 1,000 square feet of gross floor area.
3. Industrial Uses:
 - a. Manufacturing @ 1.6 parking spaces per 1,000 square feet of gross floor area.
 - b. Warehousing @ 1.1 parking spaces per 1,000 square feet of gross floor area.
 - c. Wholesale establishment @ 3.0 spaces per 1,000 square feet of gross floor area.

G. Conformance with Comprehensive Development Plan - No building permit shall be issued for any proposed development unless the Planning Commission determines that such ' proposal provides access and egress in conformance with the Comprehensive Development Plan.

Delete Cha. II, Art. 3, Sec. 7E.7. (page 25), CLUC pertaining to off-street parking.

Insert the following text to amend Cha. II, Art. 5, Sec. 2F, (pages 35-36), CLUC to read:

F. General Parking Standards - Off-street parking spaces shall be provided according to the following ratios:

| <u>Land Use</u> | <u>Minimum Parking</u> | <u>Maximum Parking</u> |
|---|--|------------------------|
| <u>Residential Uses</u> Single Family, Detached: | | |
| 1 | none | |
| 1 | none | |
| 1.25 | none | |
| 1.5 | none | |
| 1.75 | none | |
| 2.7 | 4.1 | |
| 3.75 2.7 | 4.1 | |
| 5 3.9 | 5.9 | |
| 3.2 2.7 | 4.1 | |
| | Attached: Multi-Family, | |
| | One bedroom: Two bedrooms: Three bedrooms: | |
| <u>Office Uses*</u> | | |
| General Office (Includes Office Park, & Misc. Services): Government Office: Medical/Dental Office: | | |
| <u>Business Park Use*</u> | | |
| none | 0.5 | |
| | | none none |
| <u>Industrial Uses*</u> Light Industrial, Industrial Park, | | |
| Manufacturing: | 1.6 | |
| Warehousing: | 0.3 | |
| (Building size 150,000 Gross Floor Area or greater) Warehousing: 1.1 (Building size less than 150,000 Gross Floor Area) | | |
| Wholesale Establishment: | 3.0 | |

*Parking ratios are based on spaces per 1,000 square feet of gross floor area."

(Note: Minimum Parking for Office and Business Park Uses changed by Ordinance No. 213-03

effective February 28, 2003.)

**COMPREHENSIVE CODE AMENDMENTS to December 1995 CLUC Adopted by
Ordinance No. 299^x99-F4~**

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ARTICLE 6 - MANUFACTURED HOMES ON INDIVIDUAL LOTS

SECTION 1: Development Criteria - Within the Single Family (SF) Residential District, a manufactured home placed outside of a manufactured home subdivision or a "mobile home park" shall comply with the development standards of the SF District and the following criteria:

- A. Be multi-sectional ("double wide" or wider) and enclose a floor area of not less than 1,000 square feet;
- B. Be placed on an excavated and back-filled concrete foundation, enclosed at the perimeter with no more than twelve (12) inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than twelve (12) inches of the enclosing material shall be exposed on the uphill side of the home.
- C. Have a roof with a nominal pitch at least three (3) feet in height for each twelve (12) feet in width;
- D. 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 Administrator. Bare metal siding or roofing, or panel siding is not considered a comparable residential material.
- E. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the state building code as defined in ORS 455.010;
- F. Have a garage constructed of like materials as the manufactured dwelling.

SECTION 2: Design Features - Manufactured homes within the SF District shall utilize

at least two of the following design features:

- A. Recessed entries;
- B. Bay or bow windows;
- C. Off-sets on building face or roof (minimum 24 inches);
- D. Covered porch entry with pillars or posts at least 3 ft. from face of structure;
- E. Eaves (minimum 12 inches)

- F. Tile or shake roof, or materials that achieve the

appearance of tile or shake roofing. ARTICLE 7 -

BICYCLE PARKING

SECTION 1: General Requirement - Bicycle parking shall be required at the time of establishing a new structure or use, or change in use, pertaining to multi family dwellings having four or more units, and office park, business park or industrial park developments.

SECTION 2: Design Criteria - The following design criteria shall apply for bicycle parking:

- A. Bicycle parking facilities shall either be lockable enclosures in which the bicycle is stored, or secure stationary racks which accommodate a bicyclist's lock securing the frame and both wheels;
- B. Each bicycle parking space shall be at least six feet long and two feet wide, and overhead clearance in covered areas shall be at least seven feet, unless a lower height is approved by the Design Review Board;
- C. A paved five-foot wide bicycle maneuvering area shall be provided and maintained beside or between each row of bicycle parking;
- D. Access to bicycle parking shall be provided by an impervious surface at least three feet in width;

- E. Required bicycle parking shall be located in convenient, secure and well lighted locations approved by the Design Review Board;
- F. Bicycle parking facilities may be provided inside a building in suitable secure and accessible locations;

Insert the following text to Amend Cha. II [page 39], CLUC to add a new Article 8 as follows:

ARTICLE 8 - ACCESSORY DWELLING UNITS

SECTION 1: Purpose - Accessory dwelling units are allowed in detached single family dwellings to achieve the following objectives:

- A. Create new housing units while respecting the appearance and scale of single family dwelling neighborhoods;
- B. Provide additional housing stock with minimal impact on the quality or character of existing neighborhoods;
- C. Allow a mix of housing that responds to changing family needs and smaller households;
- D. Offer a means for residents, especially seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security and companionship;
- E. Foster a more efficient use of existing housing stock and the availability of more affordable housing.

Section 2: Design Standards - The following design standards shall apply to accessory dwelling units:

- A. An accessory dwelling unit may be created within or as an addition to a detached single family dwelling. For the purposes of this article, "addition" means the sharing of a common wall with the primary residence. A garage may not be converted to an accessory dwelling unit unless a new garage is built as part of the primary building;
- B. The maximum size of an accessory dwelling unit may not exceed 33 percent of the living area of the house (excludes garage space) or 600 sq. ft., whichever is less;
- C. The number of residents permitted to inhabit the accessory dwelling unit may not exceed two persons;
- D. Either the primary single family dwelling or the accessory dwelling unit must be owner-occupied;
- E. The accessory dwelling unit shall be provided with one new off-street parking space (not counting existing parking serving the primary single family dwelling), which shall be paved

and may be covered;

***COMPREHENSIVE CODE AMENDMENTS to December 1995 CLUC
Adopted by Ordinance No. 200-99 (12/28/99)***

- F. Only one entrance may be located on the facade of the primary single family dwelling facing the street, unless the dwelling contained additional entrances before the accessory dwelling unit was created;
- G. Creation of an accessory dwelling unit shall comply with all development standards established in the base zone;
- H. Creation of an accessory dwelling unit shall respect the appearance and scale of single family dwelling neighborhoods;

Creation of an accessory dwelling unit shall have minimal impact on the quality or character of existing neighborhoods.

SECTION 3: Additional Requirements for Accessory Dwelling Units Created through the Addition of Floor Area - Accessory dwelling units created through the addition of floor area to the primary single family dwelling must comply with the following requirements:

A. Exterior Finish Materials

The exterior finish material must be the same or visually match the exterior finish material of the primary single family dwelling with respect to type, size, placement, and color;

B. Wall Siding

The siding for exterior walls must be the same or similar material and color as the primary single family dwelling;

C. Roof Pitch

The roof pitch must be the same as the predominant roof pitch of the primary single family dwelling;

D. Trim

Trim on edges of elements on the addition must be the same in type, size, and location as the trim used on the primary single family dwelling;

E. Windows

Windows must match those on the primary single family dwelling in proportion (relationship of width to height), shape and size;

F. Eaves

Eaves must project from the building walls the same distance as the eaves on the primary single family dwelling.

***COMPREHENSIVE CODE AMENDMENTS to December 1995 CLUC
Adopted by Ordinance No. 200-99 (12/28/99)***

SECTION 4: Accessory Dwelling Unit Approval - Creation of an accessory dwelling unit shall be approved by the Design Review Board in accord with the application provisions of Chapter IV, Article 3, Sections 2 and 4. Approval of a proposed accessory dwelling unit shall be based on compliance with the Section 2 design standards and, if applicable, the Section 3 requirements above. Said approval by the Design Review Board shall occur prior to issuance of a Building Permit to construct the accessory dwelling unit."

Insert the following text to Amend Cha. III, Art. 9, Sec. 2 (page 40), CLUC to add paragraph C. as follows:

- C. A land partitioning or subdivision application shall not be prohibited where the existing lot size is two or more times that of the allowed minimum lot size and may be approved subject to meeting other applicable City requirements.

COMPREHENSIVE CODE AMENDMENTS to December 1995 CLUC
Adopted by Ordinance No. 200-99 (92/28/99)
EXHIBIT A - ORDINANCE NO. 208-01

**COMPREHENSIVE LAND USE CODE AMENDMENTS
TO ESTABLISH NEW SIGN REGULATIONS**

1. Amendments to existing sign regulations and design review procedures related to signage shall be made as follows:

A. Amend Chapter II, Article 2, Section 1 to redefine the term Sign as follows:

"Sign - Any structure or medium that by use of color, form, graphic, illumination, symbol, or writing announces the presence or identifies the purpose of a person or entity or communicates any other message to the public. Signs are regulated in all zoning districts under the provisions of Chapter II, Article 9 of this Code."

B. Amend Chapter II, Section 7F. to delete the signing features and revise the reference to building features in the Business Park zone as follows:

F. Development Review and Design Review Processes - The provisions of Article 4, Chapter II, Development Review Process, and Article 2, Chapter IV, Design Review Board, shall apply to development proposals regulated under this district. In addition, the following design building features shall be considered in reviewing a Business Park development proposal:

1. Building Features

1. Utilization of flex buildings for Business Park developments.
2. Building design containing glass window area 5 feet or more in height and covering at least 50% of the lineal wall surface, and orientation of said window area should be facing a public street whenever possible.
3. High quality and aesthetic building materials which will be similarly applied to each building in the proposed development.
4. Location of loading docks and doors located to the side and rear of the building not facing a public street.
5. Buildings located on a transit street shall have at least one public entrance facing the transit street.

2. Signing Features

- a) A comprehensive sign program which controls on premise signs information in a distinctive and aesthetically pleasing manner.
- d) Sign height conveying a low profile appearance, with building signs not to exceed the level of the roof line.
- e) Signing not to be inter

C. Amend Chapter II, Article 3, Section 2 by adding Sub-Section B. as follows:

SUB-SECTION B. - Development Review and Design Review Processes - The provisions of Article 4, Chapter II, Development Review Process, and Article 2, Chapter IV, Design Review Board, shall apply to development proposals regulated under all residential districts.

~~10. Development Review Process - Office parks shall be approved in accordance with the development review process described in Article 4.~~

D. Amend Chapter II, Article 3, Section 3C10. as follows:

The provisions of Article 4, Chapter II, Development Review Process, and Article 2, Chapter IV, Design Review Board, shall apply to development proposals regulated under this district.

E. Amend Chapter II, Article 3, Section 4C11. as follows:

~~11. Development Review Process - All industrial park development shall be approved in~~
The provisions of Article 4, Chapter II, Development Review Process, and Article 2, Chapter IV, Design Review Board, shall apply to development proposals regulated under this district.

2. Add a new "ARTICLE 9 - SIGNS" to CHAPTER II - DEVELOPMENT CONTROL & ZONING - as follows:

ARTICLE 9 - SIGNS

~~SECTION 1. Scope—Any sign visible from the public right of way is subject to regulation by this Code. The regulations adopted by this Code shall apply to the placement of a new sign and major modification or replacement of an existing sign.~~

~~SECTION 2. Signs Allowed as Incidental Use Only—A sign is not a permitted use of property in any zoning district unless the sign is incidental and subordinate to a principal use that is a permitted use of the property under this Code.~~

~~SECTION 3. Prohibited Features of Signs in All Zoning Districts.—In all zoning districts, no sign visible from a public right of way shall:~~

- ~~A. Use internal illumination, a flashing or other intermittent device to display a message, or rotate, revolve or move;~~
- ~~B. Project above the highest point of any building to which the sign is attached;~~
- ~~C. If freestanding on private property,
 - ~~1. Exceed 5 feet in height from the average grade as the grade is measured within a 10 foot radius, from the base of the sign; or,~~~~

2. ~~Exceed 5 feet above the height of the public right of way if the public right of way abutting the property is more than 2 feet above the average grade at the base of the sign;~~
 3. ~~Have more than 2 display faces; or,~~
 4. ~~Have any display face larger than 4 by 6 feet in area.~~
- D. ~~Stand less than 5 feet from the boundaries of any property as those boundaries are shown on the current tax assessor's map;~~
- E. ~~Stand within or project into any portion of the public right of way unless the sign is:~~
1. ~~A traffic control device placed with the permission of the applicable road authority;~~
 2. ~~An official street name sign;~~
 3. ~~A sign designating public transit stops;~~
 4. ~~A directional sign to a federal, state, or local government function;~~
 5. ~~A sign identifying a public utility lying in or upon the right of way, or a sign identifying a public telephone.~~

~~Nothing in this Code prevents a property owner or an association of common owners in common from imposing additional restrictions on the placement of signs on that property.~~

~~SECTION 4. General Provisions as to all Permitted Signs. All signage must comply with the specific requirements of the zoning district in which it is located and the following criteria:~~

- A. ~~External lighting of signage shall require approval by the Design Review Board and shall have minimal impact on nearby properties and traffic.~~
- B. ~~The person in possession or control of property shall maintain all permitted signs on the property in good repair.~~

~~SECTION 5. Signs Allowed Without Permit. The following signs may be placed without an application for and approval of a permit but are otherwise subject to all regulations of this Code and to further regulation as follows:~~

- A. ~~A sign in the public right of way that is expressly allowed by this Code.~~
- B. ~~A sign placed on property in Single Family (SF) or Multiple Family (MF) zoning districts that is incidental to an allowed use of that property, other than a sign identifying a business activity allowed as a "home occupation," and provided that not more than 2 such signs may stand on the property at any one time and that no such sign shall exceed 8 square feet in display area.~~
- C. ~~A sign placed on a window or door of a structure in a Multiple Family (MF), Office Park (OP), Industrial Park (IR) or Business Park (BP) zoning district that identifies the name, address and telephone number of the owner or occupant and that does not exceed 2 square~~

feet in area.

- D. A sign placed on property in Office Park (OP), Industrial Park (IP) or Business Park (BP) zoning districts, other than a sign that requires Design Review Board approval as provided for herein, provided further that not more than 4 such signs may stand on any Office Park (OP), Industrial Park (IP) or Business Park (BP) property at any one time and no such sign shall exceed 16 square feet in display area.

~~SECTION 6. Home Occupation Signs Allowable by Permit.~~ Upon application by a person who owns or controls property in the Single Family (SF) or Multiple Family (MF) zoning districts, the City Administrator shall grant a permit to place a home occupation sign if:

- A. The home occupation has a current, valid City of Durham Business License and is an approved use of the property under the Comprehensive Land Use Code;
- B. The sign will be attached to the dwelling where the home occupation exists, and the highest point of the sign measures no higher than 6 feet above grade;
- C. The sign does not exceed 2 square feet in area; and,
- D. The home occupation is within a multi-family structure, the owner or person in control of that structure approves the proposed sign in writing.

~~SECTION 7. Signs Requiring Design Review Board Approval in Commercial Zoning Districts.~~ In addition to the sign(s) allowed by Sections 5 and 6, a person who owns or controls property in the Office Park (OP), Industrial Park (IP) and Business Park (BP) Districts shall place the following types of sign(s) only upon Design Review Board ("Board") approval of the sign:

- A. Property Identification (Monument) Sign—The Board may approve no more than one sign that generally identifies the property.
- B. Property Directory Sign—The Board may approve no more than one sign per building that displays a directory of the persons occupying the property.
- C. Business Identification Signs—The Board may approve no more than one wall sign for each business entity or person that occupies a building, identifying the location of the entity or person, subject to the following:
1. The wall sign area shall not exceed 30 square feet in size for each occupant;
 2. The wall sign shall not extend more than fifteen (15) feet horizontally in either direction from the centerline of the main entrance to the business;
 3. The dimensions of the wall sign shall be proportional to the building facade on which the sign is placed.
- D. Comprehensive Sign Program—An applicant for a land use permit in the Office Park (OP), Industrial Park (IP) and Business Park (BP) Districts for a development that comprises more than one building, or one building larger than 10,000 square feet, shall submit plans for a comprehensive sign program as to all on-premise signs except for those signs allowed by Sections 5 and 6 of this Ordinance. The Board shall address all of the

general criteria for signs provided for in this Code and may approve or deny the comprehensive sign program after considering the location, size, design, function and aesthetics of the signage relative to the overall design of the building facade(s) based on the following:

1. The plot plan for the development, showing the proposed location of any freestanding sign, traffic and directional signs;
2. Elevation drawings showing proposed sign size, materials and colors;
3. Elevation drawings showing proposed wall sign for each building;
4. Elevation drawings showing the proposed area and location on the building facade for each sign identifying the building occupant(s).

~~SECTION 8. Signs Requiring Design Review Board Approval in Residential Zoning Districts. In addition to the sign(s) allowed by Sections 5 and 6, a person who owns or controls property in the Single Family (SF) and Multiple Family (MF) zoning districts shall place the following types of signs only upon application for and Design Review Board ("Board") approval of the sign:~~

- A. ~~Property Identification (Monument) Sign—The Board may approve no more than one sign that generally identifies the property or subdivision.~~
- B. ~~Comprehensive Sign Program—An applicant for a subdivision or multifamily dwelling land use permit shall submit plans for, and the Board may approve or deny a comprehensive sign program for the development. The Board shall address all of the general criteria for all signs provided for in this Ordinance and shall consider the location, size, design, function and aesthetics of the signage relative to the overall design based on the following:~~
 1. ~~The plot plan for the development shall show the proposed location of any freestanding sign; and~~
 2. ~~The elevation drawings shall show proposed sign size, materials and colors;~~

~~SECTION 9. Procedure When Sign Permit Required—No person shall place or maintain any sign for which this Code requires a permit or requires Design Review Board approval without first applying to the City Administrator and paying any prescribed fee(s) under a process that the City Council shall establish by resolution. The City Administrator shall review and approve the application for compliance with the provisions of this Code and for compliance with all other applicable city, county, state and federal laws as may apply. An application to modify or replace an existing sign shall be reviewed for conformance to the adopted Board conditions of approval as to the property; if it does not conform, the application shall be referred to the Design Review Board for consideration as a new application for signage as to that property. The City Administrator shall deny issuance of a sign permit to any person or entity who does not have a current, valid City of Durham Business License when the city requires such a license. A decision of the City Administrator or the Board relating to a sign on property may be appealed to the Planning Commission in accord with Chapter VI, Article 2, Section 8 of this Code.~~

Section 1. Scope and Purpose. This article applies to any sign visible from public

property, from public right of way or from any private property that is open for use by the public no matter whether the sign is publicly- or privately placed or maintained. This Article applies both to the placement of a new sign and to any alteration or reconstruction of a sign existing when this article becomes effective that changes the placement, dimension, lighting, elevation, display area, or supporting structure of a sign or that adds to the number of signs on the same property. The purpose of this Article is to provide for and preserve a neat, clean, orderly and attractive appearance of the community, to improve the effectiveness of signs, to provide for safe construction, location, erection and maintenance of signs, to prevent proliferation of signs and sign clutter, to minimize visual distractions to persons traveling on public rights of way and to achieve these purposes consistent with state and federal constitutional limits on the regulation of speech.

Section 2. Findings. The Council finds that it is necessary to prohibit all signage with certain kinds of illumination and to regulate the dimension and placement of various signs in order to limit distractions to motorists, mar the City's small neighborhood, residential character, and reflect that vehicle trips to and from the residential, office and light industrial permitted uses of property in the City are typically planned, not done on impulse, and thus directional signage allowed in each zoning district should be only limited to what is reasonable and necessary for the number of vehicle trips that accompany such uses.

Section 3. Signage Allowed Only As Accessory Use. Signage shall be deemed an accessory use to a permitted use of property and shall not be allowed as the principal use of property in any zoning district. All signage that is within the scope of Section 1 of this Ordinance is subject to regulation by this Code but such signage is allowed without application for- and approval of a land use permit except where this Ordinance expressly provides otherwise.

Section 4. Regulations Applicable to All Signs in All Zoning Districts. No sign that is within the scope of this Ordinance shall:

A. Use internal- or flashing- or other intermittent illumination or rotate, revolve or move, except for a temporary traffic control sign placed or allowed by the government having jurisdiction over the right of way where the sign is placed;

B. Project above the eave line of any building to which the sign is attached;

C. Project into *the area defined as 5 feet from and parallel to the boundary between the property on which the sign is located and the adjacent public right of way or project into the area defined as 20 feet from and parallel to the curb line for the adjacent public street(s), whichever is greater;*

D. Stand within or project into any portion of the public right of way unless the sign is

1. a traffic control device placed by the government having jurisdiction over that right of way; or

2. an official street name sign, a sign designating a public transit facility; or,

3. a directional sign to a government office; or,
4. a sign identifying the location of a public utility lying under or over the surface of the right of way;

provided, that all signage allowed as an exception by this paragraph D shall otherwise comply with all other regulations of this section.

E. If freestanding:

1. Exceed 5 feet in height from the average grade as the grade is measured within a 10 foot radius from the base of the sign;
2. Exceed 5 feet above the height of any portion of the public right of way that abuts the property on which the sign stands;
3. Have more than 2 display faces; and,
4. Have any display face larger than 4 feet by 6 feet in dimension or **24** feet in area; and, provided further, that nothing in this Ordinance shall prevent a property owner or association of common owners from imposing additional regulations on the placement of a sign on that property.

Section 5. Signs Allowed Without Permit. The following types and numbers of signs may be placed and maintained without an application for- and approval of a land use permit but otherwise are subject to the regulations stated in this Ordinance:

A. A sign in the public right of way as allowed by Section 4 of this Ordinance.

B. A sign on property in a SF or MF zoning district other than a sign relating to business activity on the property, up to a maximum of 2 signs on the property at any one time and up to a maximum display area of 8 square feet per sign.

C. A sign identifying the location of individual occupants of property in a BP, IP, MF, or OP zoning district, provided that the sign is placed only on a window or door and that the sign identifies only the name, address and contact information for the owner or occupant up to a maximum display area of 2 square feet per sign.

D. A sign on property in a BP, IP or OP zoning district of a type that is not subject to Design Review Board approval as provided for in this Ordinance , up to a maximum of 4 such signs on the property at any one time if all are *not* illuminated and up to a maximum of 2 such signs if illuminated, and up to a maximum display area of 16 square feet per sign.

Section 6. Home Occupation Sign. Upon application by a person who owns or controls property in a MF or SF zoning district, the City Administrator shall grant a permit to that person for a home occupation sign if the City Administrator finds:

A. The home occupation has a current, valid City of Durham business license and is an approved use of the property under the city's land use regulations; and,

B. The sign will be attached to the dwelling where the home occupation is situated, the

sign shall not project more than 5 feet above the height of the average grade as the grade is measured within a 10 foot radius from the grade directly below the sign, and the display area is no more than 2 square feet per sign; and,

C. If the home occupation is within a multi-occupant structure, a person who owns or controls that structure has approved the sign in a writing addressed and delivered to the City Administrator.

Section 7. Signs Requiring Land Use Permit.

A. The following signs on property in the BP, IP and OP zoning districts require application to and approval by the Design Review Board for a permit:

1. The Board may allow one “monument” sign that generally identifies the name and location of the use of the property.
2. The Board may allow one “directory” sign per structure that identifies the name and location of all persons and entities occupying that structure.
3. The Board may allow one sign attached to a structure that identifies each person or entity that occupies a structure, provided that each such sign:
 - a. Does not exceed 30 square feet in display area; and,
 - b. Does not extend more than 15 feet horizontally on either side of the main entrance to the person or entity’s place of business; and
 - c. Is not disproportional to the building facade on which the sign is attached.

B. An application for signage that is regulated by subsection A of this Section for development that comprises more than one structure or for a single structure that comprises greater than 10000 gross square feet shall show all signs proposed for the property in one comprehensive application.

C. The Board shall approve, approve with conditions or deny an application for signage under this Section based on the compatibility of the location, size, design, function and aesthetics of the signage with the approved design of any structures. All applications for a signage permit under this Section thus shall include at a minimum the following detail:

1. The plot plan for the development showing the proposed location of any freestanding-, traffic control- and directional signs; and,
2. Elevation drawings showing the proposed signage dimension, material and colors showing where all proposed signs will be attached to the structure(s).

D. The following signs on property in the MF and SF zoning districts require application to and approval by the Design Review Board for a permit:

1. The Board may allow one “monument” sign that generally identifies the site by name and location; and
2. The Board may allow additional freestanding and attached signage to be shown in one comprehensive application that includes, at a minimum, detail showing the plot plan for the development with proposed location, elevation, dimension, material and color(s) of all freestanding and attached sign(s).

E. The Board’s review of the application shall be deemed a limited land use decision and shall be noticed and heard as provided for in ORS 197.195. The Board’s decision on an

application may be appealed as provided for in the Comprehensive Land Use Code

Section 8. Variance Process and Criteria. An applicant for a sign for which this Ordinance requires a permit may apply to the reviewing authority (the City Administrator or the Design Review Board, as the case may be) for a variance from the location or dimension requirements of this Ordinance, or both. No variance shall be granted that results in obstruction of the vision clearance area at intersections of streets and driveways or that results in signage within the public right of way (other than the signs allowed in the right of way by Section 4 of this Ordinance). The reviewing authority must find that specific conditions exist which are unique to the applicant's property or to a structure on the property, or that the development incorporates features which compensate for a variance from the location or dimension requirements of this Ordinance, or both. The reviewing authority may only grant the minimum variance necessary to allow use of the property similar to that allowed to substantially similar property and must find that allowing the variance is otherwise consistent with the Comprehensive Land Use Plan and Development Code. An applicant aggrieved by the reviewing authority's decision on a request for a variance may appeal that decision to the City Council in the matter provided for in this Ordinance.

Section 9. Sign Permit Appeals .

A. An applicant who is aggrieved by the City Administrator's decision on an application for a sign that may appeal the denial in writing addressed to the City Council stating the grounds for the appeal. The Council shall hear the appeal at its next available meeting.

B. An appeal of action taken by the Design Review Board on an application for a land use permit for one or more signs on property shall follow the process set out in the Comprehensive Land Use Code.

G. Bicycle parking facilities shall be identified with appropriate signing located at the main building entrance and at the location of the bicycle parking facilities;

H. Required bicycle parking spaces shall be provided at no cost to the bicyclist, or with only a nominal charge for key deposits, etc. This shall not preclude the operation of private for-profit bicycle parking businesses.

SECTION 3: Off-Street Parking Provisions - The following minimum standards for off-street bicycle parking shall be met:

A. Multi family dwelling having four or more units:

1.0 space per unit (If garage structure provided with a dwelling unit, then no bike parking space is required.)

B. Office park, business park and industrial park developments:

2.0 spaces, or 0.5 spaces per 1000 gross square feet of building floor area,

whichever is greater.

CHAPTER III - LAND PARTITIONING AND SUBDIVISION CONTROL

ARTICLE I - ADMINISTRATIVE PROVISIONS, GENERALLY

SECTION I - Purpose - The purpose of this Chapter is to provide rules, regulations and standards to govern the approval of plats of subdivisions and also of partitioning of land by creation of a street or way to carry out the development pattern and plan of the City of Durham.

SECTION 2 - Approval of Subdivisions and Land Partitionings

- A. The City shall have all the power and duties with respect to preliminary and final plans and maps of subdivisions and land partitionings and the procedure related thereto, which are specified and authorized by law and by this Code.
- B. Approval by the City of subdivisions and land partitionings inside the boundaries of the City of Durham is necessary before a plat for any such division of land may be filed or recorded in the office of the City Recorder.

SECTION 3 - Definitions - As used in these regulations the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

- A. Building Line - A line on a plat indicating the limit beyond which buildings or structures may not be erected.
- B. Development Plan - Any plan adopted by the City Council for the guidance of growth and improvement of the City, including adjustments made from time to time to meet changing conditions or unanticipated problems and conditions affecting the public or land owners.
- C. Easement - A grant of the right to use a strip of land for specific purposes.
- D. Lot - A parcel of land intended as a unit for transfer of ownership or for development.
 - 1. Corner lot - A lot abutting upon two or more streets at their intersections.
 - 2. Reversed Corner Lot - A corner lot, the side street of which is substantially a continuation of the front lot line of the first lot to its rear.

Amend Chapter III, Article 1, Section 2 (page 40), CLUC to add paragraph C

- C. A land partitioning or subdivision application shall not be prohibited where the existing lot size is two or more times that of the allowed minimum lot size and may be approved subject to meeting other applicable City requirements.

3. Through Lot - A lot having frontage on two parallel or approximately parallel streets other than alleys.
- E. Pedestrian Way - A right-of-way for pedestrian traffic.
 - F. Planned Residential Development - A use under single family residential zones which goes beyond general subdivision practices in combining types of dwellings and other structures and used along with open areas to provide a more desirable overall living environment without greatly varying density.
 - G. Planning Control Area - An area in a state of incomplete development within which special control is to be exercised over land partitioning.
 - H. Plat - Includes a final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision by which the subdivider's plan of subdivision is presented, and which he submits for approval and intends in final form to record.
 - I. Right-of-Way - The area between boundary lines of a street or other easement.
 - J. Roadway - The portion or portions of street right-of-way developed for vehicular traffic.
 - K. Sidewalk - A pedestrian walkway with permanent surfacing.
 - L. Street - The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms, "road," "highway," "lane," "place," "avenue," "alley," or similar designations.
 1. Alley - A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.
 2. Minor Arterial - A street which is used primarily for through traffic or which, by its location, will likely be needed for such use in the normal growth of the City.
 3. Collector - A street supplementary to the minor arterial street system used to some extent for through traffic and to some extent for access to abutting properties.
 4. Cul-de-sac (dead-end street) - A short street having one end open to traffic and being terminated by a turnaround.
 5. Half Street - A portion of the width of a street usually along the edge of a subdivision where the remaining portion of the street has been or could later be provided in another subdivision.

6. Marginal Access Street (frontage road) - A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
- M. Street Plug - A narrow strip of land located between a subdivision and other property, not dedicated to public use, but conveyed to the City for the purpose of giving the City control over development of the adjacent property.
- N. Subdivide Land - Means to divide a parcel of land into four or more parcels for the purpose of transfer of ownership of building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for at least one full year preceding the division.
- O. Subdivision - Either an act of subdividing land or a tract of land subdivided as defined in this section.

ARTICLE 2 - TENTATIVE SKETCH

SECTION I - Submission of Tentative Sketch - In accordance with provisions under development review for planned residential developments, the subdivider shall prepare a tentative sketch together with improvement plans and other supplemental material as may be required to indicate the general program and objectives of the projects, and shall submit fifteen (15) copies of such to the City Recorder not less than sixty (60) days prior to the next regularly scheduled Planning Commission meeting.

SECTION 2 - Explanatory Information with Tentative Sketch - Any of the following information may be required by the City and if it cannot be shown practicably on the tentative sketch, it shall be submitted on separate sheets accompanying the tentative sketch:

- A. A vicinity map showing all existing subdivision, streets and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets may be extended to existing streets. The vicinity map shall be at a scale of one inch equals four hundred feet (F' = 400') and shall show all lands within a radius of one-half (1/2) mile from the proposed streets within the proposed subdivision and their connection with adjacent streets plus zoning on and adjacent to the tract.
- B. Approximate centerline profiles showing the finished grade of all streets as approved by the City Engineer, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
- C. Approximate plan and profiles of proposed sanitary and storm sewers with grades and pipe sizes indicated and plan of the proposed water distribution systems, showing pipe sizes and the location of valves and fire hydrants. Also, the location in the adjacent streets and properties of existing sewers, water drains, culverts, and drain

pipes, electric conduits or lines proposed to be used on the property to be subdivided and invert elevations of sewers at point of proposed connection.

SECTION 3 - Scale - The tentative sketch shall be drawn on a sheet 18 x 24 inches in size or a multiple thereof at a scale of one inch equals one hundred feet (1" = 100').

SECTION 4 - General Information - The following information shall be shown on the tentative sketch:

- A. Appropriate identification clearly stating the map is a tentative sketch.
- B. Proposed name of the subdivision. This name must not duplicate or resemble the name of any other subdivision in Washington County and must be approved by the City.
- C. Date, north point, and scale of drawing.
- D. Location of the subdivision by Section, Township and Range, and a legal description sufficient to define the location and boundaries of the proposed tract or the tract designation or other description according to the real estate records of the County Assessor.
- E. Names and addresses of the owner or owners, subdivider, and engineer or surveyor.

SECTION 5 - Existing Conditions - The following existing conditions shall be shown on the tentative sketch:

- A. The location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract, easements, railroad rights-of-way and other important features such as section lines and corners, City boundary lines and monuments.
- B. Contour lines related to some established bench mark or other datum as approved by the City Engineer with intervals at a minimum of two (2) feet for slopes up to five (5) percent, and five (5) feet for slopes over five (5) percent.
- C. The location of at least one temporary bench mark within the plat boundaries.
- D. Location and direction of all water courses.
- E. Natural features, such as rock outcroppings, marshes, wooded areas and isolated preservable trees.
- F. Existing uses of the property, including location of all existing structures to remain on the property after platting.

SECTION 6 - Proposed Plan of Land Partitioning - The following information shall be included on the tentative sketch:

- A. Streets, showing location widths, names, approximate grades, and approximate radii of curves.
- B. The relationship of all streets to any projected streets as shown on any development plan adopted by the City. Easements, showing the width and purpose.
- C. Lots, showing approximate dimensions, minimum lot size, proposed lot and block numbers.
- D. Sites, if any, allocated for multiple family dwellings, shopping centers, churches, industry, parks, schools, playgrounds, **public** or semi-public buildings or other special use.

SECTION 7 - Partial Development - Where the plat to be subdivided contains only part of the tract owned or controlled by the subdivider, the City shall require a plan of tentative layout for streets in the unsubdivided portion.

SECTION 8 - Preliminary Review of Proposal - Within two (2) days after being submitted by the subdivider, the City Recorder shall furnish one (1) copy of the tentative sketch and supplemental material to the County Surveyor, one copy to the County Planning Office, and one copy to the State Highway Division. These agencies shall be given at least until the hearing on the preliminary plan and program, described below.

SECTION 9 - Review of Tentative Sketch at Hearing on Preliminary Development Plan and Program

- A. Upon receipt of the tentative sketch and supplemental material, the City Recorder shall arrange for a public hearing to be held by the Planning Commission in accordance with provisions for quasi-judicial proceedings, described in this Code.
- B. The City Recorder shall circulate the tentative sketch with the City Engineer, County Surveyor, and other professional advisors to the City for the purpose of reviewing the material for its compliance with provisions for a tentative sketch as provided in this Article. Within fifteen (15) days after receipt of the tentative sketch and other material by the subdivider, the City Recorder shall notify the subdivider of any additional information required in order for the tentative sketch to comply with this Article.
- C. Review of the tentative sketch for subdivision shall be in accordance with provisions for review of preliminary development plan and program as described in this Code.

SECTION 10 - Approval of Tentative Sketch and Review by Design Review Board

Upon approval of the tentative subdivision sketch by the Planning Commission, the tentative sketch shall be referred to the Design Review Board where the specific decisions relating to the preliminary plat shall be reviewed and approved by the Board.

ARTICLE 3 - PRELIMINARY PLAT

SECTION I - Hearing on Preliminary Plat, Action by Planning Commission

- A. Within 90 days of referral to the Design Review Board, the subdivider shall submit a preliminary plat to the Planning Commission. The form and content of the preliminary plat shall include the following:
1. The preliminary plat shall consist of elements approved by the Design Review Board. Where the preliminary plat is at variance with the recommendations of the Design Review Board, notation of differences shall be made known and written explanation of the differences as they effect the subdivider shall be provided.
 2. All information required by the tentative sketch.
- B. Upon submission of the preliminary plat to the City Recorder, public hearing procedures for notification shall be followed.
- C. The public hearing on the proposed preliminary plat shall be conducted in such a manner as provided in the rules of the Planning Commission.
- D. The Planning Commission may approve the preliminary plat, require amendments or modifications thereto or reject the proposed preliminary plat. The action of the Planning Commission shall be noted on two (2) copies of the preliminary plat, which notation shall identify any documents describing conditions of approval or modifications. One (1) copy of the plat shall be returned to the applicant, and the other copy shall be retained in the office of the City Recorder with a memorandum setting forth the action of the Planning Commission.

ARTICLE 4 - FINAL PLAT

SECTION I - Submission of Final Plat - Within twelve (12) months after approval of the preliminary plat, the applicant shall cause the subdivision or any part thereof to be surveyed and a final plat prepared in conformance with the preliminary plat as approved. The applicant shall submit the original drawing, the cloth and five (5) prints of the final plat and all supplementary information required pursuant to the provisions of this Code to the City Recorder at least ten (10) days prior to the City Council meeting at which consideration of the plat is desired. The City Administrator may grant a 12-month one-time extension of time within which to file the final plat if, prior to the expiration of the first 12-month period, the applicant requests in writing a 12-month extension and the City

Administrator makes a finding in writing that there has been no substantial change in the Development Code or the Comprehensive Plan which would materially affect the proposed development. If the applicant wishes to proceed with the subdivision after the expiration of 12 months, or if an extension has been granted, after the expiration of 24 months, beginning from the date of the Planning Commission approval of the Preliminary Plat, he must submit the Preliminary Plat to the Planning Commission and make any revisions considered necessary by the Commission to meet changed conditions. New fees shall be assessed as necessary. Any extension of time within which to file the final plat granted pursuant to this Section 1 shall apply retroactively to any preliminary plat approved by the Planning Commission for which the 12-month period within which to file the final plat expired after July 1, 1982. An extension for the submission of the final plat granted pursuant to this Section may commence running as of the date of such expiration and shall continue for a period of 12 months from the date the extension is granted. It is the express intent of the Council that this ordinance have retroactive effect to any approved preliminary plat for which preliminary approval expired after July 1, 1982. With respect to each such expired preliminary approval, the right of extension granted by the (date)amendment of this Section shall lapse if the applicant fails to make written application to the City Administrator within 60 days of the effective date of the amendment.

SECTION 2 - Information on Final Plat - In addition to that otherwise specified by law, the following information shall be shown on the final plat:

- A. The date, scale, north point (generally pointing up), legend, and controlling topography such as creeks, highways, and railroads.
- B. Legal description of the tract boundaries.
- C: Reference points of existing surveys identified, related to the plat by distances and bearings, and references to recorded surveys as follows:
 - 1. The location and description of all stakes, monuments, other evidence found on the ground and used to determine the boundaries of the sub- division.
 - 2. Adjoining corners of all contiguous subdivisions.
 - 3. Section, Township, Range, donation land claim lines and boundaries of any lots within previously recorded subdivision plats within or adjacent to the plat.
 - 4. Whenever the City, County or State has established the center lines of a street adjacent to or within the proposed subdivision, the location of this line shall be shown and monuments found or reset.
 - 5. Location and description of all monuments found or established in making the survey of the subdivision or required to be installed by the provisions of these regulations.

- D. Lines with dimensions, bearings, radii, arcs, delta angles, points of curvature and tangent bearings for tract, lot and block boundaries and street right-of-way and center lines. Error of closure shall be within the limit of one foot in 4,000 feet. No ditto marks shall be used. Lots containing one acre or more shall show total acreage to nearest hundredth.
- E. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the widths on each side of the center line. For streets on curvature, curve data shall be based on the street corner line and, in addition to center line dimensions, shall indicate thereon the radius and center angle. This data may be shown in a table.
- F. Easements within or adjacent to the plat denoted by fine dotted lines, clearly indicated and, if already of record, its recorded reference. If any easement is not definitely

located of record, a statement of the bearings of the lines thereof, and sufficient ties thereto, to definitely locate the easement as being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

- G. Lot numbers beginning with the number "1" in each block.
- H. Block numbers, if used, should begin with the number "1" and continue consecutively without omission or duplication throughout the subdivision. Block numbers in an addition to a subdivision of the same name shall be a continuation of the numbering in the plat last filed.
- I. Land parcels to be dedicated for any purpose are to be distinguished from lots intended for sale.
- J. The following certificates, which may be combined where appropriate:
 - 1. A certificate signed and acknowledged by all parties having any interest in record title in the land subdivided, consenting to the preparation and recording of said map and dedicating all parcels of land shown on the final map and intended for any public use.
 - 2. An affidavit signed by the engineer or the surveyor responsible for the survey and final map, the signature of such engineer or surveyor to be accompanied by his seal.
 - 3. Provisions for all certifications now or hereinafter required by law.

SECTION 3 - Supplemental Information with Final Plat - The subdivider will provide the following additional information:

- A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties having any record title interest in the premises and what interests they have.
- B. Sheets and drawings showing the following:
 - 1. Traverse data, including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 - 2. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and State highway stationing.
- C. A copy of deed restrictions, including building setback lines, if any, are applicable to the subdivision, and a copy of any dedication which requires separate documents.
- D. Written proof that all taxes and assessments on the tract are paid for the current year.
- E. A certificate by the City Engineer stating that the subdivider has complied with one of the following alternatives:
 - 1. All improvements have been installed in accordance with the requirements of these regulations and with the action of the City Council giving tentative approval of the preliminary plat.
 - 2. An agreement has been executed as provided herein.

SECTION 4 - Approval of Final Plat - Upon receipt by the City Recorder, the final map and other data shall be reviewed. If the City Engineer and City Recorder determine that the final plat is in full conformance with the approved preliminary plat and other regulations, they shall so advise the Mayor. The Mayor may then sign the plat without further action by the City Council. If the final plat is not in full conformance, it shall be submitted to the City Council. When submitted to the City Council, approval of the final plat shall be by a resolution of the Council. In the absence of the Mayor, his duties and powers with respect to action on final plats shall be vested in the President of the Council.

SECTION 5 - Approval of County Surveyor - After approval by the City Council, the City Recorder shall transmit the final map, tracing and other data to the County Surveyor who shall examine them to determine that there has been compliance with all provisions of the State law and this Code. The County Surveyor may make such checks in the field as he may desire to verify that the map is sufficiently correct on the ground and he may enter the property for this purpose. When the County Surveyor finds the documents in full conformance and has been paid the statutory fee for such service, he shall sign his

approval in the space provided.

SECTION 6 - Agreement for Improvements Before the City Council approval is certified on the final plat, the subdivider shall complete all required subdivision improvements and have the same accepted by resolution of the City Council, or in the alternative, the subdivider shall execute and file with the City an agreement between the subdivider and the City specifying the period within which all required subdivision improvements and repairs shall be completed, providing that if such work is not completed within the period specified, the City may complete the same and recover the full cost and expense thereof from the subdivider. Such agreement may also provide for the construction of the improvements in phases. The agreement shall provide that the subdivider will guarantee

the required subdivision improvements against any and all defects in workmanship and materials for a period of two (2) years from and after the date of completion of said improvements. In the event the subdivider completes the construction of required subdivision improvements prior to approval and certification of final plat, the subdivider shall execute and file with the City Council a maintenance bond and guarantee issued by a surety authorized to do business in the State of Oregon, which maintenance bond and guarantee shall provide that any and all defects in workmanship and materials for a period of two (2) years from and after the date of acceptance and approval of said subdivision improvements shall be corrected, repaired and made to conform to the applicable City standards for such improvements. The City Council may approve, upon request, a deposit of cash with the City, or cash in escrow with an escrowee approved by the City and subdivider. The deposit of cash or cash in escrow shall be in lieu of the corporate surety bond if approved by the City Council. Such assurance of maintenance and guarantee shall be for a sum approved by the City Recorder provided, however, that such sum in lieu of a maintenance bond shall not be less than fifteen percent (15%) of the actual cost of construction of said improvements.

SECTION 7 - Bond - The subdivider shall file with the agreement required above a corporate surety bond issued by a surety company authorized to transact business in the State of Oregon, which bond shall assure the subdivider's full and faithful performance of the provisions of said agreement. The City Recorder may approve, upon request, a deposit of cash with the City, or cash in escrow with a bonded escrow agent licensed in the State of Oregon. The deposit of cash or cash in escrow shall be in lieu of the corporate surety bond if approved by the City Recorder. Such assurance of full and faithful performance of said agreement shall be for a sum approved by the City Recorder as sufficient to cover the cost of the required subdivision improvements, including related engineering and incidental expenses. In the event the subdivider fails to perform all provisions of the subdivision agreement and the City has unreimbursed costs or expenses resulting from such failure to perform, the City shall be authorized to use the cash deposit for reimbursements or bring an action or claim on the surety or on the surety bond. If the amount of the bond or cash deposit exceeds cost and expense incurred by the City to perform the provisions of the agreement upon the subdivider's failure to do so, the City shall release the remainder, and if the amount of the bond or cash deposit is less

than the cost and expense so incurred by the City, the subdivider shall be liable to the City for the difference.

SECTION 8 - Filing of Final Plat - The City Recorder shall, without delay, submit the final plat to the County Assessor and the County governing body for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within 60 days after the date the last required approving signature has been obtained.

ARTICLE 5 - APPROVAL OF STREETS AND WAYS

SECTION I - Creation of Streets

- A. The final plat shall provide for the dedication of all streets approved and accepted for public use. Acceptance of the final plat shall constitute acceptance of the street dedication shown thereon.
- B. The creation of all streets shall be in conformance with requirements for subdivision, except, however, the Planning Commission may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions, provided any of the following conditions exist:
 - 1. The establishment of the street is initiated by the Planning Commission 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 of one acre or less and such dedication in the judgment of the Planning Commission is not an attempt to evade the provisions of this Code governing the control of land partitioning.
 - 3. The tract constitutes or is part of a planned residential development approved as provided herein.
- C. In those cases where approval of a street is to be without full compliance with the regulations applicable to subdivision, a copy of the proposed deed shall be submitted to the City Recorder at least 21 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 Article VII of these regulations, shall be approved with such conditions as are necessary to preserve these standards.

SECTION 2 - Creation of Ways - Any easement of way providing access to property and which is created in order to allow the partitioning of land for the purpose of transfer of ownership or building development, whether immediate or future shall be in the form of a

street in a subdivision. A private easement of way to be established by deed without full compliance with these regulations maybe approved by the Planning Commission, provided it is the only reasonable method by which the rear portion of an unusually deep lot large enough to warrant partitioning into two or more parcels may obtain access, provided, however, that said access shall be in compliance with the access and egress provisions of the Zoning Ordinance of the City of Durham.

ARTICLE 6 - LAND PARTITIONING

SECTION I - Land Partitioning - Partitioning an area, parcel or tract of land within the City shall be in accordance with the standards and regulations contained in this Article. For purposes of this Code, "partition land" means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single owner-ship at the beginning of such year. "Partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created, and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by this Code. Partitioning of land in the City shall be approved upon compliance with the following procedure and conditions:

- A. There shall be submitted to the City Recorder four (4) copies of a sketch map 8-1/2" x 11", or 18" x 24" in size, with the following information:
 1. The date, north point, scale, and sufficient description to define the location and boundaries of the area or tract of land to be partitioned and its location.
 2. The name and address of the record owner or owners and of the person who prepared the sketch map.
 3. The approximate acreage of the area or tract of land under a single ownership at the beginning of the calendar year within which the partitioning will occur, or such owner or owners of contiguous units of land under single ownership at the beginning of such year.
 4. 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, poles, and also existing water wells.
 5. The location of existing structures to remain in place.
 6. The lot layout, showing size and relationship to existing or proposed streets and utility easements.
 7. Such additional information as required by the City Recorder and payment of fees as determined by the City.

- B. The sketch map shall be submitted to the City Recorder for determination that the proposal will be compatible with the Comprehensive Development Plan of the City, and all other applicable ordinances and regulations. The City Recorder may require dedication of land and easements for the establishment of a road or street when necessary to conform to the Comprehensive Development Plan or other applicable ordinances or regulations of the City, to the extent that the dedication is roughly proportional to the impact of the development on the capacity of the street. In no event, however, shall the City Recorder require greater dedication of land than could be required if the parcel were subdivided. If the proposed partitioning outlined in the sketch map conforms to the provisions of the Comprehensive Development Plan and other applicable regulations and ordinances, the City Recorder shall certify on the sketch map that additional partitioning within the area or tract of land shown on the sketch map may occur without approval of the City Recorder.
- C. When a sketch map has been approved, all copies shall be marked and certified with the date and conditions, if any, of approval. Two (2) copies of the certified sketch map shall be returned to the applicant, and two (2) copies shall be retained by the City Recorder.
- D. In the event the City Recorder determines that a street or road must be established to conform with the provisions of the Comprehensive Development Plan, the street or road shall be constructed in accordance with the applicable design standards of this Code. If the City Recorder finds that the cost of such street improvements is disproportional to the total cost of the development, the recorder may allow a deferral of street improvements by recording a Waiver of Remonstrance to a local improvement district.
- E. When minor partitions are requested and fees as determined by the City are paid, appropriate notice must be given by posting notice in three (3) public places inside the City and at City Hall, and publishing in the local newspaper of general circulation in order that the general citizenry may be notified and may have the opportunity of reviewing the application and making written statement on same to City Recorder before final decision is made.
- F. Appeal Procedure - See original No. 3 Amendment, page 10, "Appeal to City Council."

ARTICLE 7 - DESIGN STANDARDS

SECTION I - Principles of Acceptability - The subdivision shall be in conformity with any development plans and shall take into consideration any preliminary plans made in anticipation thereof. The subdivision shall conform with the requirements of State laws and the standards established by these regulations.

SECTION 2 - Streets

A. General - The location, width, and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. Where location is not shown in the development plan, the arrangement of streets in a subdivision shall either:

1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas, or
2. Conform to a plan for the neighborhood approved or adopted by the City Council to meet particular situations where topographical or other conditions made continuance of or conformance to existing streets impractical.

B. Minimum Right-of-Way and Widths for Road Surfacing - The width of streets in feet shall not be less than the minimums shown in the following table:

| Type of Street | Rights-of-Way Minimum | Road Surfacing Minimum |
|-----------------------------------|-----------------------|------------------------|
| Major Arterial Street | 80' | 60' |
| Minor Arterial Street | 60' | 46'-48' |
| Major Collector Street | 60' | 42' |
| Neighborhood Collector Street | 50' | 32' |
| Neighborhood Street & Cul-de-sac | 40' | 26' |
| Turn-Around for Cul-de-sac Street | 45' Radius | 38' Radius |

C. Reserve Strips - Reserve strips or street plugs controlling the access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in these cases they may be required. The control and disposal of the land composing such strips shall be placed within the jurisdiction of the City under conditions approved by the City Council.

D. Alignment - All streets shall, as far as practicable, be in alignment with the existing streets by continuations of the center lines thereof. In no case shall the staggering of streets make a "T" intersection be so designed to allow a dangerous condition. Offsets of less than 100' will not be allowed.

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

F. Intersection Angles - Streets shall be laid out so as to intersect at an angle as near to a

right angle as practicable, except if topography requires a lesser angle, but in no case less than 60 degrees unless there is special intersection design. Streets shall have at least 25 feet of tangent adjacent to the right-of-way intersection unless topography requires a lesser distance. Intersections which are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than 20 feet. Appeal to the City Council on such decisions made by an authorized official of the City or Planning Commission must be initiated within ten (10) days after the date of approval or disapproval from which the appeal is taken. Payment of the fees shall be as determined by the City.

- G. Existing Streets - Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision.
- H. Half Street - Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the City Council finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.
- I. Cul-de-sacs - A cul-de-sac shall be as short as possible.
- J. Street Names - No street name shall be used which will duplicate or be confused with the names of existing streets in the County of Washington, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.
- K. Grades and Curves - Grades shall not exceed six percent (6%) on major or secondary arterials, ten percent (10%) on collector streets, or twelve percent (12%) on any other street. Center line radii of curves shall not be less than 300 feet on primary arterials, 200 feet on secondary arterials, or 100 feet on other streets.
- L. Streets Adjacent to Railroad Right-of-Way - Whenever the proposed sub-division contains or is adjacent to a railroad right-of-way, provision shall be made for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets or 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.
- M. Alleys - Alleys, 20 feet in width shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the Planning Commission. While alley intersections and sharp changes in alignment shall be avoided, the corners of

necessary alley intersections shall have a radius of not less than 12 feet.

- N. Solar Orientation - The street arrangement shall, to the most practical extent possible, provide for the east/west orientation of streets, thereby providing the most effective use of solar energy.

SECTION 3 - Blocks

- A. General - The length, width, and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic, and recognition of limitations and opportunities of topography.
- B. Sizes - Blocks shall not exceed 1,200 feet in length, except blocks adjacent to arterial streets or unless the previous adjacent layout or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.
- C. Easements

1 Utility Lines - Easements for sewers, drainage, water mains, electric lines, or other public utilities shall be either dedicated or provided for in the deed restrictions. Easements shall be a minimum of 10 feet in width, and centered on rear or side lot lines except for tie-back easements which shall be 6 feet wide by 20 feet long along lot side lines at change of direction points or easements.

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2. Water Courses - Where a subdivision is traversed by a water course, drainage way, channel or street, there will be provided a storm water easement of drainage right-of-way conforming substantially with the lines of the water course, and such further width, as will be adequate for this purpose, streets or parkways parallel to water courses may be required.

SECTION 4 - Lots

- A. Size and Shape - The lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and shall comply with this Code for the type of development and use contemplated. These minimum standards shall apply with the following exceptions:
1. In areas that will not be served by public sewer and/or public water supply, the lots shall also conform to any special requirements developed by the County Health Department with respect to problems of sewage disposal and/or water

supply.

2. Where property is zoned for business or industrial use, other widths and areas may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
 3. Where the tract constitutes or is part of a planned residential development approved as provided in this Code, and fully complied with specific conditions imposed at the time of its approval.
- B. Access - The subdividing of the land shall be such that each lot shall abut upon a public street.
- C. Double Frontage - Double frontage and reversed frontage lots should be avoided except where essential to provide separation of residential development from railroads, traffic arteries, adjacent non-residential uses or to overcome specific disadvantages of topography and orientation.
- D. Lot Side Lines - The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.
- E. Building Lines - If special building setback lines are to be established in the subdivision, they should be shown on the subdivision plat or included in the deed restrictions.

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SECTION 5 - Large Lot Subdivision - In subdividing tracts into large lots which at some future time are likely to be re-subdivided, the Planning Commission requires that the blocks shall be of such size and shape, be so divided into lots, and contain such building site restrictions as will provide for the extension and opening of streets at such intervals as will permit a subsequent division of any parcel into lots of smaller size.

SECTION 6 - Open Spaces Due consideration shall be given by the subdivider to the allocation of suitable areas for schools, parks, and playgrounds to be dedicated for public use. Where proposed park, playground, or other public use provide the Comprehensive Development Plan is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision. Where considered desirable by the Planning Commission and where a development plan of the City does not indicate proposed public use areas, the Planning Commission may require the dedication or reservation of areas or sites of a character, extent and location suitable for the development of parks and other public use.

ARTICLE 8 - IMPROVEMENT REQUIREMENTS

SECTION I - Improvement Requirements - The following improvements shall be installed at the expense of the subdivider. All improvements installed by the subdivider shall be guaranteed as to workmanship and material for a period of two (2) years following acceptance by the City. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the City Engineer. Said cash or bond shall comply with the terms and conditions of this Code.

- A. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the City. Existing streets which abut the subdivision shall be graded, constructed, reconstructed, surfaced or repaired as determined by the City Administrator with the advice of the City Engineer.
- B. Curbs shall be constructed in accordance with standards adopted by the City.
- C. Concrete sidewalks shall be installed in accordance with standards adopted by the City.
- D. Sanitary Sewers - All new structures requiring sewage disposal shall be required to make connection to sanitary sewers.
- E. Drainage of surface water shall be provided as determined by the City.
- F. Underground Utility and Service Facilities - All utility lines including, but not limited to, those required for electric, communication, lighting, and cable television services and related facilities shall be placed under- ground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground services. The City of Durham reserves the right to approve location of all surface-mounted transformers.
- G. Street light standards may be installed in accordance with regulations adopted by the City. The subdivider shall provide for the illumination of street lights for a period of two (2) years after installation.
- H.. Street name signs shall be installed at all street intersections and dead-end streets and cul-de-sacs in accordance with standards adopted by the City. Stop signs and other signs may be required upon the recommendations of the City Engineer.
- I. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, at intermediate points and shall be of such material, size and length as

required by State law. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced to conform to the requirements of State law.

ARTICLE 9 - IMPROVEMENT ADMINISTRATION

SECTION 1 - Fees - No subdivision improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other. requirements, shall be undertaken except after the plans therefore have been approved by the City of Durham and a permit issued and the required fees paid.

SECTION 2 - Improvement Procedures - In addition to other requirements, improvements installed by the subdivider, either as a requirement of these regulations or at his own option, shall conform to the requirements of this Code and to improvement standards and specifications followed by the City. The improvements shall be installed in accordance with the following procedure:

- A. Work shall not begin until plans have been checked for adequacy and approved by the City in writing. All such plans shall be prepared in accordance with requirements of the City.
- B. Work shall not begin until the City has been notified in advance and if work is discontinued for any reason, it shall not be resumed until the City is notified.
- C. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.
- D. Provision for all underground utilities, including 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 shall be long enough to avoid disturbing the street improvements when service connections are made.
- E. Upon completion of the required improvements, the subdivider shall request a final inspection by the City Engineer. When the final inspection is completed, and when any necessary repairs or adjustments are made, the City Engineer shall recommend approval and acceptance of the improvements by the City Council. Acceptance of the improvements by the City shall constitute the release of any cash deposits or bonds filed to assure completion of the improvements; however, all improvements shall be guaranteed as to workmanship and material for a period of two (2) years following acceptance by the City.
- F. The subdivider or individual lot owners within the subdivision may request building permits, sewer permits, or water service for not more than fifty percent (50%) of the platted lots within the subdivision prior to the completion and acceptance by resolution of the Council of all required subdivision improvements. No permits or service shall

be issued until the City Engineer has determined that the required subdivision improvements are sufficiently complete to assure that the health and safety of the residents will not be endangered. Before any service is offered by the City through water or sewer facilities, the lines shall first be tested. and approved by the City Engineer, and as-constructed drawings shall have been furnished by the subdivider. The roadway surfaces and drainage facilities shall be sufficiently complete to assure that year-round access will be available to each lot for which permits are issued and that no damage to said lot will result from the fact that the improvements are not totally complete. Use of the improvements prior to the final approval and acceptance by the City shall not act to release any cash deposits or bonds filed to assure completion of the improvements. No permits or service shall be approved for lots in excess of fifty percent (50%) of the platted lots within the subdivision until such time as all required subdivision improvements have been accepted by resolution of the City Council.

ARTICLE 10 - EXCEPTIONS, VARIANCES AND ENFORCEMENT

SECTION 1 - Exception in Case of Large Scale Development - The standards and requirements of these regulations may be modified by the Planning Commission in the case of a plan and program for a complete community, a neighborhood unit, a large-scale shopping center, or large industrial area development, providing the modifications are not detrimental to the public health, safety, and welfare, and providing the Planning Commission determines there is provision for adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the developed tract and its relation to adjacent areas and for such covenants or other legal provisions as will assure conformity to and achievement of the plan.

SECTION 2 - Variance Application - When necessary, the Planning Commission may authorize conditional variances to the requirements of these regulations. Application for a variance shall be made by a petition of the subdivider, stating fully the grounds of the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative map of the sub-division. In order for the property referred to in the petition to come within the provisions of this section, it shall be necessary that the Planning Commission shall find the following facts with respect thereto:

- A. That there are special circumstances or conditions affecting the property.
- B. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner and extraordinary hardships would result from strict compliance with these regulations because of the special circumstances or conditions affecting the property.
- C. That the granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to other property. in the vicinity in which the property is situated.

SECTION 3 - Variances

- A. In granting necessary variances, the Planning Commission shall adhere substantially to the objectives of the regulations to which variances are granted. The imposition of any conditions necessary for this purpose shall be specified in granting the variance.
- B. In granting a variance, the Planning Commission shall make a written record of its findings and the facts in connection therewith, and shall specifically and fully set forth the variance granted and the conditions designated. The City Recorder shall keep such findings on file as a matter of public record.

SECTION 4 - Penalties for Violation - Any person offering to sell, contracting to sell, or selling land contrary to the provisions of these regulations shall be punishable as provided by law including ORS 92.990.

SECTION 5 - Temporary Sales Office - The Planning Commission of the City may, with the consent of the owner, by motion, grant permission for the use of any real property within this City as and for a temporary sales office or offices for the purpose of facilitating in the sale of real property in any subdivision or tract of land within this City, but for no other purpose. The permission granted shall be of a duration not to exceed three years from the date of the motion allowing the same, or such shorter period of time as the Planning Commission shall deem advisable and provide in the motion granting and allowing the same. The office shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated. The property to be used for a temporary sales office shall not be permanently improved for the purpose, providing, however, that a dwelling structure designed primarily for other purposes may be used temporarily for a sales office. The granting of permission to use real property for a temporary sales office shall not be construed as granting a temporary zone change and the Planning Commission may impose such terms and conditions upon the granting of the permission as authorized by this section, as it deems advisable.

CHAPTER IV - DESIGN REVIEW BOARD

ARTICLE 1: ADMINISTRATIVE PROVISIONS, GENERALLY

There is hereby established the Design Review Board whose members, terms, officers and manner of transacting business shall be as follows:

SECTION 1: Composition of Board and Qualifications of Members - The Board shall consist of five regular members who shall be members of the Planning Commission. The Board shall also have four professional members including an architect, an engineer, an urban planner, a landscaping specialist, and/or combinations thereof. The professional members shall, whenever possible, be residents of the City.

SECTION 2: Appointment and Terms - The regular members of the Board shall be appointed by the Chairman of the Planning Commission. The professional members shall be appointed by and serve at the pleasure of the Chairman. Terms of regular members shall be for one (1) year, beginning the first regularly scheduled Planning

Commission meeting of each calendar year.

SECTION 3: Vacancies and Removal - Any vacancy of a regular member shall be filled for the remainder of the unexpired term of the original appointment. The Chairman of the Planning Commission may remove any regular member for official misconduct or non-performance. Unexcused absences from three (3) consecutive Board meetings, including regular and work sessions, shall constitute non-performance. An excused absence may be obtained by contacting the Chairman or Secretary of the Board at least 24 hours prior to any scheduled Board meeting or session.

SECTION 4: Chairman and Secretary - The Chairman of the Planning Commission Shall appoint the Chairman and Secretary of the Design Review Board, who shall be regular members.

SECTION 5: Voting - Three (3) regular members shall constitute a quorum for the transaction of business. Each regular member and each professional member shall have one (1) vote. A majority vote of the regular and professional members present shall be required for all Board actions.

SECTION 6: Meetings and Records - The Board shall hold meetings whenever (a) required by the Planning Commission or (b) whenever called by the Chairman of the Design Review Board, or whenever the City Administrator refers a proposed change to a final plan. The deliberations and proceedings of the Board shall be public. The secretary shall keep minutes of the Board proceedings and such minutes shall be public record.

SECTION 7: Rules - The Board may adopt and amend rules to govern the conduct of its business.

ARTICLE 2: JURISDICTION OF THE BOARD

SECTION 1: _____ Scope - The Design Review Board shall review and prepare design recommendations to the Planning Commission as part of the development review process specified under Chapter II, Article 4 of this Code. The Board shall also review and prepare recommendations of any other matter referred to it by the Commission.

SECTION 2: _____ Residential Development - The Design Review Board shall review all preliminary planned residential developments, tentative sketches of residential subdivisions, and multi-family developments referred to it by the Planning Commission. The Design Review Board shall review project plans which pertain to buildings, landscaping, utilities, signing, lighting and related design details in terms of the following:

- A. Compliance With Zoning Standards (Chapter II, Article 3) Tables 1 and 2 - If the proposal requires, a c
If the proposal requires a variance to the specific development standards for

residential districts found in Table 2, the Design Review Board shall prepare findings supporting its decision to recommend approval, denial or approval with conditions to the Planning Commission. If the proposal requires a variance to the supplemental standards applicable to all residential district, the Design Review Board shall prepare findings recommending approval, denial, or approval with conditions to the Planning Commission.

- B. Compliance With Housing Policies of the Comprehensive Plan - Housing type and density as specified in the housing policies of the comprehensive plan shall be strictly followed in the deliberations of the Design Review Board.
- C. Compliance With Off-Street Parking and Loading (Chapter II, Article 5) - The Design Review Board shall ensure compliance with the Off-Street Parking and Loading provisions of this Code.
- D. Compliance With Land Partitioning and Subdivision Control (Chapter III) - The requirements of the Code shall be strictly followed in the deliberations of the Design Review Board and conditions to the Planning Commission.
- E. Compliance With Greenways (Chapter V) - If the proposal requires a special permit as a part of an overall development program, the Design Review Board shall prepare findings supporting approval, denial, or approval with conditions of the special permit to the Planning Commission.
- F. Compliance With Policies to Provide Satisfactory Recreational Opportunities of the Comprehensive Plan - For purposes of implementing the policies of the Durham Plan, the Design Review Board shall ensure that residential subdivisions and multi-family developments allocate at least five percent (5%) of the gross site area for recreational use in accord with Code standards. The Board shall ensure that planned residential developments allocate at least 30% of the net buildable area for common open space in accord with Code standards. Payment of a Systems Development Charge by the applicant shall also be considered in determining compliance with the plan policy.
- G. Compliance With Energy Conservation Policies of the Comprehensive Plan - The Design Review Board shall ensure compliance with the energy conservation policies of the Comprehensive Plan.

SECTION 3: Office Park, Business Park, and Industrial Park Developments - The Design Review Board shall review all preliminary development plans and programs submitted to it by the Planning Commission. The Design Review Board shall review project plans which pertain to buildings, landscaping, utilities, signing, lighting and related design details in terms of the following:

- A. Compliance with Zoning Districts (Chapter II) - If the proposal requires a variance to the specific development standards for office park and industrial park districts as specified in Chapter II, Article 3, Sections 3 and 4 of this Code, the Design Review Board shall prepare findings supporting its recommendation for approval, denial, or approval with conditions to the Planning Commission.

- B. Compliance With Off-Street Parking and Loading (Chapter II, Article (5)) - If the proposal requires a variance to the specific off-street parking and loading standards of this Code, the Design Review Board shall prepare findings supporting its recommendation for approval, denial, or approval with conditions to the Planning Commission.
- C. Compliance With Land Partitioning and Subdivision Control (Chapter III) - If the proposal requires a variance to the specific land partitioning and subdivision control provisions of this Code, the Design Review Board shall prepare findings supporting its recommendation for approval, denial, or approval with conditions to the Planning Commission.
- D. Landscaping - The Design Review Board shall require a development to be attractively landscaped and perpetually maintained. The methods of landscaping and perpetual maintenance shall be proposed by the applicant and shall be reviewed by the Design Review Board. Approval of a landscape plan with conditions shall not result in a landscaping cost exceeding ten percent (10%) of the true market value of the land proposed for development at the time of application, unless the applicant agrees otherwise. Special consideration as to cost shall be made by the Design Review Board when an effort is made by the application to preserve as many trees as possible which are already on-site.
- E. Exterior Appearance - The Design Review Board shall review the applicant's proposed building elevations, exterior materials, colors, exterior lighting, directional and/or information signs, and other aspects of the project's exterior appearance to ensure compatibility of the proposed development with the City's community appearance policies.
- F. Energy Conservation Policies of the Comprehensive Development Plan - The Design Review Board shall encourage development proposals to conserve energy in accordance with the policies of the Durham Plan. The Design Review Board may require installation of bus shelters at important locations in order to encourage employees to use buses. However, the cost of these shelters shall be considered as part of the cost in landscaping.

ARTICLE 3 - PROCEEDINGS AND ACTIONS OF THE BOARD

SECTION 1: Procedure - Upon approval by the Planning Commission of a preliminary development plan and program, or upon referral of any other matter by the Planning Commission, the applicant for development shall submit to the Board all relevant drawings, sketches, site plan, utility plans, building elevations, landscape plan, lighting plan, signing details, and other information as may be required in accordance with provisions of the Development Review Process under Article 4, Chapter II of this Code.

In addition, the Board may require of the applicant any related information it deems necessary in order to prepare development recommendations to the Planning Commission.

SECTION 2: Notice - At least three (3) days prior to the date that the Board begins reviewing and deliberating on the application for development, the City Recorder shall post a notice of the meeting in or at the City Hall. The notice shall contain a brief description of the subject property, either by street address, tax account number, metes and bounds, or combination thereof, the time and place that the Board will meet, and the nature of the proposed development. Failure to post notice as specified in this section shall not invalidate any decision or proceeding of the Board.

SECTION 3: Recommendation to Planning Commission - After one or more meetings for considering the proposed development plans, the Design Review Board shall determine its recommendations for referral to the Planning Commission. The Board shall prepare findings supporting its decision for approval, denial, or approval with conditions to the Planning Commission.

SECTION 4: _____ Implementation of Final Plan and Program - After approval by the Planning Commission of the final development plan and program, the Design Review Board shall review all proposed substantial changes to the development and may (a) approve or modify the change or (b) deny the change. The City Administrator shall determine whether any proposed development change is substantial. If the applicant does not agree with the decision of the Board, he may appeal the decision to the Planning Commission according to the same provisions for appeal as described in Chapter VI - Administrative Procedures.

SECTION 5: _____ Posting of Bond to Insure Completion of Landscaping and Site Improvements - Prior to the issuance of a building permit, the applicant shall execute and file with the City Recorder a Completion Bond and Guarantee issued by a surety authorized to do business in the State of Oregon, which Completion Bond and Guarantee shall provide that all landscaping and site improvements required as a condition of approval shall be completed within six (6) months following final inspection of the building. Such Bond and Guarantee shall be for a sum determined by the Design Review Board at the time of approval to be equal to 100 percent of the project landscape architect's and engineer's cost estimate for landscaping and site improvements.

CHAPTER V - GREENWAYS

ARTICLE 1 - ADMINISTRATIVE PROVISIONS, GENERALLY

SECTION 1 - Statement of Intent - "Greenways" are considered to be land unsuitable for development because of locations within the 100-year floodplain or within the drainage way associated with the floodplain or the slopes along these areas. Greenways may also be land designated for park development or other land designated as a Greenway area.

This Chapter of the Code seeks to protect and preserve natural water storage areas, floodplains and drainage way areas and other Greenways by discouraging or prohibiting incompatible uses except in those instances where findings may properly be made by the Planning Commission or City Council allowing limited use of such areas.

SECTION 2 - Definitions - In this Chapter, the following words and phrases shall be construed to have the specific meanings assigned to them as follows:

- A "Fill" means any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pulled or transported and includes the conditions resulting therefrom.
- B. "Flood" means a temporary rise in stream flow that results in water overtopping stream channel.
- C. "Flood hazard" means an immediate danger to property or health as the result of inundation of the floodplain.
- D. "Floodplain" means the relatively flat area or lowlands adjoining the channel of a river, stream, water course or other body of water which has been or may be covered by floodwaters within the area of applicability defined by the floodplain district.
- E. "100-year floodplain" is defined as those areas within the City of Durham inundated by the 100-year regulatory flood as defined by the U. S. Army Corps of Engineers.
- F. "Flood surface elevation" - those elevations depicted on the floodplain series maps are based on near sea level datum and their locations are an indication of the surface elevations at that location.
- G. "Obstruction" means any dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, bridge, conduit, culvert, building, gravel,

EXHIBIT B - ORDINANCE NO. 210-01

COMPREHENSIVE LAND USE CODE AMENDMENTS TO COMPLY WITH TITLE 3 OF METRO'S REGIONAL FUNCTIONAL PLAN

1. Amend *CHAPTER II - DEVELOPMENT CONTROL AND ZONING, ARTICLE 4 - DEVELOPMENT REVIEW PROCESS, SECTION 2: Preliminary Development Plan and Program*, Subsection A. 4 and 5 (Page 27) and Subsection B. 8 (Page 28); the new language is **bolded** and deleted text is ctruck through as follows:

SECTION 2: Preliminary Development Plan and Program - The applicant shall submit a

preliminary development plan and program to the Planning Commission for approval in principle. This preliminary development plan and program shall include the following elements:

A. Site analysis and survey showing the following items:

1. Location of the proposed development by Section, Township and Range, and a legal description sufficient to define the location and boundaries of the proposed development;
2. Property dimensions;
3. Contour lines related to some established bench mark or other datum as approved by the City Engineer with intervals at a minimum of two (2) feet for slopes up to five (5) percent and five (5) feet for slopes over five (5) percent;
- 4.

~~service availability letter signed by Clean Water Services (CWS, formerly USA) that the proposed development will meet the agency's~~

Location and direction of existing water courses **and** floodplain area, including a

Water Quality Sensitive areas that

exist on site or within 200' of the site, including a copy of the approved Pre-Development Site Assessment information required by Section 2.02 of Clean Water Services' *Design and Construction Standards for Sanitary and Surface Water Management (February 2000)*;

5. Natural features including type and location of all existing trees over five (5) inches in diameter, floodplains, wetlands, riparian areas, steep slopes (25 percent or greater), or **other data required to meet that addresses the performance standards found in *Title 3: Water Quality, Flood Management, and Fish and Wildlife Conservation* described in the *Metro Urban Growth Management Functional Plan*;**
6. Existing uses of the property, including location of all existing structures on the property;
7. Easements, showing location, width, and purpose.

B. Project site plan showing the following items:

1. Vicinity map showing the subject property, adjacent properties and zoning districts within a 1,000 feet of the proposed development;
2. Date, north point, and scale;
3. Location, widths and names of all existing or platted streets or other public ways within or adjacent to the development, easements, railroad rights-of-way, including dedication of additional right-of-way for existing street widening;
4. Proposed streets or other ways showing location, widths, names, approximate grades,

and approximately radii of curves;

5. Access, parking, loading and circulation pattern for vehicles, bicycles and pedestrians, including typical dimensions;
6. Location, dimensions, and setbacks of proposed buildings and accessory structures;
7. Location and dimensions of proposed landscaped areas including type and location of existing trees to be preserved with the development;
8. Location and dimensions of **any land that might to be platted as a non-buildable tract or** dedicated to the City as part of the City's Greenway and recreation policies of the Comprehensive Plan, including any improvements proposed **and, in the case of riparian Greenway areas, that CWS's *Design and Construction Standards for Sanitary and Surface Water Management* have been incorporated in the process of establishing the boundaries for the area to be dedicated set aside from development.**
9. Site data listing square footage and percentage of land area allocated to building coverage, landscaping, and parking/loading/driveways; plus number of proposed parking spaces including handicapped parking;

2. Amend *CHAPTER III - LAND PARTITIONING AND SUBDIVISION CONTROL, ARTICLE 2 - TENTATIVE SKETCH, SECTION 5: Existing Conditions*, Subsections D and E (Page 44); the new language is **bolded** as follows:

SECTION 5 - Existing Conditions - The following existing conditions shall be shown on the tentative sketch:

- A. The location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract, easements, railroad rights-of-way and other important features such as section lines and comers, City boundary lines and monuments.
- B. Contour lines related to some established bench mark or other datum as approved by the City Engineer with intervals at a minimum of two (2) feet for slopes up to five (5) percent, and five (5) feet for slopes over five (5) percent.
- C. The location of at least one temporary bench mark within the plat boundaries.
- D. Location and direction of all water courses, **floodplain areas, and Water Quality Sensitive areas that exist on site or within 200' of the site, including a copy of the approved Pre-Development Site Assessment information required by Section 2.02 of Clean Water Services' *Design and Construction Standards for Sanitary and Surface Water Management* (February 2000).**
- E. Natural features, such as rock outcroppings, marshes, wooded areas and isolated preservable **trees and other data that addresses the performance standards found in *Title 3: Water Quality, Flood Management, and Fish and Wildlife Conservation* described in the *Metro Urban Growth Management Functional Plan*.**

- F. Existing uses of the property, including location of all existing structures to remain on the property after platting.

3. Amend *CHAPTER 111 - LAND PARTITIONING AND SUBDIVISION CONTROL, ARTICLE 7 - DESIGN STANDARDS, SECTION 3: Blocks*, Subsection C. 2. (Page 57); by adding new language that is **bolded** as follows:

SECTION 3 -

Blocks C.

Easements

1. Utility Lines - Easements for sewers, drainage, water mains, electric lines, or other public utilities shall be either dedicated or provided for in the deed restrictions. Easements shall be a minimum of 10 feet in width, and centered on rear or side lot lines except for tie-back easements which shall be 6 feet wide by 20 feet long along lot side lines at change of direction points or easements.
2. Water Courses - Where a subdivision is traversed by a water course, drainage way, channel or street, there will be provided a storm water easement of drainage right-of-way conforming substantially with the lines of the water course, and such further width, as will be adequate for this purpose, streets or parkways parallel to water courses may be required. **Clean Water Services (CWS, formerly USA) and the City shall coordinate their review and comment on the design so that it conforms with this Code and will meet CWS's Design and Construction Standards for Sanitary and Surface Water Management (February 2000).**

3. Amend *CHAPTER III LAND PARTITIONING AND SUBDIVISION CONTROL, ARTICLE 6 - LAND PARTITIONING, SECTION IA. 4* (Page 52) by inserting two additional sub-paragraphs (7 & 8) and renumbering former sub-paragraph 7 to 9 as follows:

1

- 2 **Location and direction of existing water courses, floodplain area and Water Quality Sensitive areas that exist on site or within 200' of the site, including a copy of the approved Pre-Development Site Assessment information required by Section 2.02 of Clean Water Services' and floodplain ar a, including a ccervico**

propoeed dcvelopmont will meet CWS'o Design and Construction Standards for Sanitary and Surface Water Management (February 2000).

7. **Natural features including type and location of all existing trees over five (5) inches in diameter, floodplains, wetlands, riparian areas, steep slopes (25 percent or greater), or other data e t+i ed to meet that addresses the performance standards found in Title 3: Water Quality, Flood Management, and Fish and Wildlife Conservation described in the Metro Urban Growth Management Functional Plan.**

9. Such additional information as required by the City Recorder and payment of fees as determined by the City.

5. Amend *CHAPTER 111 - LAND PARTITIONING AND SUBDIVISION CONTROL, ARTICLE 8 IMPROVEMENT REQUIREMENTS, SECTION 1E.* (Page 58) to read as follows:

E. Drainage of surface water shall be provided **in accord with CWS's *Design and Construction Standards for Sanitary and Surface Water Management (February 2000)***.

6. Amend *CHAPTER V -*

GREENWAYS in its entirety to read

as follows **CHAPTER V -**

GREENWAYS

ARTICLE 1 - ADMINISTRATIVE PROVISIONS, GENERALLY

SECTION 1 - Statement of Intent - "Greenways" are areas set aside to restrict development along natural drainage ways and other areas with the intention of preserving native vegetation and wildlife habitat while providing opportunities for passive recreation activities. Greenways are also established to protect life and property from dangers associated with flooding in Flood Management Areas. It is further intended that Greenways will provide a permanent open space system to enhance the quality of life within the Durham community. This may include park sites outside of Flood Management Areas.

This Chapter of the Code seeks to protect and preserve natural water storage areas, floodplains and drainage way areas and other Greenways by discouraging or prohibiting incompatible uses except in those instances where findings may properly be made by the Planning Commission or City Council allowing limited use of such areas.

SECTION 2 - Definitions - In this Chapter, the following words, abbreviations, and phrases shall be construed to have the specific indicated meanings assigned to them as follows: unless the context requires otherwise.

- A. "Clean Water Services" is the new name for the Unified Sewerage Agency (USA) as adopted in 2001; accordingly, references to USA and Clean Water Services refer to the same agency and are used interchangeably depending on date and context.
- B. "Design and Construction Standards" is the abbreviation for *DESIGN AND CONSTRUCTION STANDARDS for Sanitary and Surface Water Management* as adopted by the Unified Sewerage Agency (USA) on February 22, 2000 by Resolution and Order No. USA 00-7.

- C. "Development" means any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as development for the purpose of Title 3 except that more than 10 percent removal of vegetation on a lot must comply with Section 4C - Erosion and Sediment Control. Development does not include the following: a) Stream enhancement or restoration projects approved by cities and counties; b) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; and c) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2) (1995).
- D. "Drainage ways" are defined as those areas associated with the floodplain which convey concentrations of water over or near the surface of the land whether or not there is a visible channel and include portions of slopes down which water travels to reach said areas.
- E. "Fill" means any material such as, but not limited to, sand, gravel, soil, or rock that is placed in a Title 3 wetland or floodplain for the purposes of development or redevelopment.
- F. "Flood Management Areas" are all lands contained within the 100-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency (FEMA) Flood Insurance Maps and the area of inundation for the February 1996 flood; in addition, all lands which have documented evidence of flooding or updated information related to the FEMA maps.
- G. "Floodplain" means the land area identified and designated by the United States Army Corps of Engineers, Oregon Division of State Lands, FEMA, or Washington County that has been or may be covered temporarily by water as a result of a storm event of identified frequency. It is usually the flat area of land adjacent to a stream or river formed by floods.
- H. "Floodway" means the portion of a watercourse required for the passage or conveyance of a given storm event as identified and designated by the Design and Construction Standards established by Clean Water Services.
- "Greenways" are open space areas set aside for a variety of recreational and habitat preservation uses that include, but are not limited to, providing protective buffers between incompatible land uses, reducing flood hazard by restricting development along natural drainage ways, providing opportunities for passive recreation activities, and affording alternative pedestrian and bicycle circulation routes separated from motorized vehicles. Greenways also contain the Flood Management Areas and Water Quality Resource Areas as regulated under Title 3.
- J. "Obstruction" means any dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, bridge, conduit, culvert, building, gravel, refuse, fill, structure or matter in, along, or across or projecting into any channel, water course, or floodplain drainage ways areas which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of health or property.
- K. "Open Space" means land that is undeveloped and that is planned to remain so indefinitely. The

term encompasses parks, forests and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and parks.

- L. "Pre-Development Site Assessment" refers to the definition from CWS's Design & Construction Standards that requires the Owner or his authorized agent to provide a site assessment, and if further required by CWS, a natural resource assessment for the Water

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Quality Sensitive Areas and Vegetated Corridors on or adjacent to the development site prior to undertaking any development or submitting a land use application to the City.

- M. "Regulatory flood" means the flood used to define the outer boundary lines of the floodplain district. The maximum flood predicted to occur within each 100 years as defined by the U. S. Army Corps of Engineers.
- N. "Riparian" means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.
- O. "Title 3" is the abbreviation for Metro's Title 3: *Water Quality Flood Management, and Fish and Wildlife Conservation* chapter of the Urban Growth Management Functional Plan and, more specifically referring to compliance with Sections 1-4 as amended by Metro Ordinance No. 98-730C.
- P. "Title 3 Wetlands" are defined as wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Area Map and other wetlands added to city or county adopted Water Quality and Flood Management Area maps consistent with the criteria in Title 3, Section 7C. Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.
- Q. "Water Quality Resource Areas" means the vegetated corridors and the adjacent water feature as established in Title 3.
- R. "Wetlands" means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and which under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

Section 3 - Basis for Establishing Greenway Areas - The Greenway areas are designated on the City's adopted land use plan and include the Flood Management Areas and Water Quality Resource Areas as identified under Title 3. The Title 3 maps shall serve as a guide for delineating Flood Management and Water Quality Resource Areas for Durham locations, and are hereby adopted by reference.

A more detailed description of the floodplain for the Fanno Creek area is available in the mapped data compiled for the *FANNO CREEK WATERSHED FLOOD INSURANCE RESTUDY 100-Year & 500-Year Floodplain, FEMA Floodway, and Base Flood Elevations* (Final Draft 10/1/2000). This information will be used as a basis for establishing the floodplain elevation for sites in the northwest section of the city, and is hereby adopted by reference.

ARTICLE 2 - USES

SECTION 1 - Permitted Uses - The following uses by their nature do not threaten obstruction of water flow in the floodplain and do not impair the water storage capacity of the Flood Management Area and shall be permitted within the Flood Management Area subject to the limitations in this Chapter and *Design and Construction Standards*.

- A. Off-street parking and maneuvering areas, access ways and service drives located on the ground surface as approved in conjunction with a single family, multiple family, office park, or industrial park development. Excavation, grading and paving may occur to construct said facilities, however, no fill shall be allowed for construction of said facilities other than gravel for a paving base and only an amount of gravel commensurate with City construction standards for said facilities shall be allowed:
- B. Accessory residential uses such as lawns, gardens or play areas not causing substantial obstructions to floodwaters and including fences designed to minimize the obstruction of floodwaters and flood-carried debris.
- C. Roadways, bridges or utility structures designed to not significantly impede the flow of floodwaters.
- D. Agricultural uses conducted without locating a structure in the Flood Management Area including a boundary fence designed to minimize the obstruction of floodwaters and flood-carried debris.
- E. Community recreational uses such as bicycle and pedestrian paths, archery ranges, athletic fields or parks. The recreational use shall not include any permanent structures causing a significant obstruction to the flow of floodwaters.
- F. Public and private conservation areas for the conservation of water, soil, open space, forest or wildlife resources.

SECTION 2 - Prohibited Uses and Activities - The following uses and activities are prohibited in Greenways except pursuant to special permit granted by the Planning Commission based on findings as provided herein.

- A. Filling;
- B. Permanent structures permitted in other zoned areas of the City, except those provided as permitted uses;
- C. Dumping of garbage, rubbish, debris, junk, or any other waste;
- D. Excavating;
- E. Removing any live vegetation other than poison oak, tansy ragwort, blackberry or any other noxious vegetation identified by the City Recorder.
- F. Subsurface sewerage disposal septic tanks and drain fields.
- G. Any temporary structure which by its nature cannot be readily removed from-the Flood

Management Area during periods of flooding and which would significantly impede or interfere with the flow of floodwaters within the district;

- H. Any change in the topography or terrain which would have a substantial tendency to change the flow of waters during flooding periods or which would increase flood hazard or alter the direction or velocity of the floodwater flow.
- I. Storage of hazardous materials as defined by the Oregon Department of Environmental Quality (DEQ).

SECTION 3 - Non-Conforming Uses - Any pre-existing condition or structure within the Greenway district is subject to the non-conforming use provisions of this Code.

SECTION 4 - Special Permits or Exceptions - Application for a "Special Use Permit" may be approved or denied by the Planning Commission following a public hearing. All applications for a Special Use Permit shall be supported by the following information to enable the Planning Commission to adequately determine whether the proposed use will conform to the purposes and guidelines as set forth in this Chapter and *Design and Construction Standards*. At the applicant's expense, the City shall reserve the right to retain a registered professional engineer with experience in hydraulic principles and processes for the purpose of reviewing evidence submitted in support of any application for Special Use Permits.

- A. Plans drawn to scale, submitted in triplicate as prepared by a registered professional engineer with experience in hydraulic and hydrologic principles and processes showing the nature, location, dimensions, elevations, and topography of the site; the location of existing and proposed structures located upon the site; existing and proposed fill areas, and the relationship of these to the location of the stream channel and proposed methods for controlling erosion.
- B. Any documentation, photographs, water marks, and similar evidence offered in support of the claim that the site or area in question lies above high water as defined by the regulatory flood.
- C. If it is determined by the Planning Commission that the proposed use is within the Flood Management Area as herein defined, the applicant shall furnish such further information, data and evidence as may be reasonably available to support the granting of the permit in accordance with the following guidelines, in the absence of which said petition shall be denied by the Planning Commission.
 - 1. Proposed improvements will not change the flow of floodwaters during future flooding such as to cause a compounding of flood hazards and to thereby seriously interfere with the intent and purposes of the Flood Management Area regulations.
 - 2. No structure, fill, storage or other uses shall be permitted which would reduce the capacity of the Flood Management Area or raise the flood surface elevation on adjacent properties, or create a present or foreseeable hazard to public health, safety and general welfare.
- D. Affirmative documentation that the proposed action will not adversely impact runoff, erosion, ground stability, water quality, ground water level, or flooding and that the site can support the proposed modification or structure without damage to adjacent properties.

- E. A copy of the letter of approval from Clean Water Services, including a copy of the approved Pre-Development Site Assessment information, that all requirements of the *Design and Construction Standards* have been met by the applicant and that Clean Water Services would issue permits for the proposed project pending Planning Commission approval.

SECTION 5 - Standards for Permitted Structures and Development - Any structure, additions to existing structures, or development permitted within the Greenways shall comply with the following standards:

- A. Permitted structures, such as electrical and service equipment, etc., shall be constructed at or above the regulatory flood protection elevation. Utility openings shall be sealed and locked.
- B. The lowest finished floor level of a structure designed for human occupancy shall be at least one and one-half feet above the Base Flood Elevation (often referred to as the 100- year flood).
- C. The lower portions of any structure shall be flood-proofed or otherwise protected from significant damage or inundation to a minimum flood surface elevation of the regulatory flood.
- D. The design of substructures and structural members of all buildings shall be designed to withstand expected water pressure and velocities as well as minimize flood risk conditions.
- E. The provisions of *Design and Construction Standards* shall be followed for the construction of buildings in all zoning districts.
- F. All water quality resource areas shall be protected with a vegetated corridor in accord with the *Design and Construction Standards*.

ARTICLE 3 - TREATMENT OF CREATED HARDSHIPS

It is the intention of this City to acquire as much of the land within Greenway areas for public use as possible. All developments which include portions of the Greenways may be conditioned to either dedicate appropriate lands to the City or plat areas as separate unbuildable tracts if and when development takes place. This may create certain hardships. It is the policy of the City to allow a density transfer onto buildable portions of effected lands in exchange for public dedications, or other applicable allowances as determined by either the Planning Commission or the City Council. Additional allowances may include modified building setbacks, increased building height, reduced lot frontage, etc. Such additional allowances may be considered for approval through provisions for a Planned Residential Development per Chapter II, Article 3, Section 1, or through a Variance application per Chapter VI, Article 2, Section 2D. If the development application is not submitted as a Planned Residential Development per Chapter II, Article 3, Section 1, the property may be considered for a density transfer through a Variance application based on one dwelling unit per acre of designated Greenway land. Regarding properties having less than one acre of designated Greenway land, a density transfer of one dwelling unit may be allowed based on the property having a minimum Greenway area of 21,780 square feet.

ARTICLE 4 - APPEAL TO CITY COUNCIL

An appeal of any Planning Commission decision shall be filed with the City Recorder within 10 days of the decision and shall be scheduled for a public hearing before the City Council.

refuse, fill, structure or matter in, along, or across or projecting into any channel, water course, or floodplain drainage ways areas which may impede, retard, or

change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of health or property.

- H. "Regulatory flood" means the flood used to define the outer boundary lines of the floodplain district. The maximum flood predicted to occur within each 100 years.
- I. "Drainage ways" are defined as those areas associated with the floodplain which convey concentrations of water over or near the surface of the land whether or not there is a visible channel and include portions of slopes down which water travels to reach said areas.
- J. "Wetlands" are defined as those areas where the water table seasonally is within I-I/2 feet or less of the surface due to low-lying, poorly drained soils.
- K. "Greenways" are defined as unbuildable lands and other lands that establish a greenway system that will (a) tie together recreation areas, schools, and their service areas; (b) provide protective buffers between incompatible land uses; (c) reduce flood hazard by restricting development along natural drainage ways; (d) provide opportunities for passive recreation activities; (e) afford alternative pedestrian and bicycle circulation routes separated from the street system and motorized vehicles; and (f) preserve the amenity of the area.

ARTICLE 2 - USES

SECTION 1 - Permitted Uses - The following uses by their nature do not threaten obstruction of water flow in the floodplain and do not impair the water storage capacity of the floodplain and shall be permitted within the floodplain subject to the limitations in this Chapter.

- A. Off-street parking and maneuvering areas, access ways and service drives located on the ground surface as approved in conjunction with a single family, multiple family, office park, or industrial park development. Excavation, grading and paving may occur to construct said facilities, however, no fill shall be allowed for construction of said facilities other *than gravel for a paving base and only an amount of gravel commensurate with City construction standards for said facilities shall be allowed:*
- B. Accessory residential uses such as lawns, gardens or play areas not causing substantial obstructions to floodwaters and including fences designed to minimize the obstruction of floodwaters and flood-carried debris.
- C. Roadways, bridges or utility structures designed to not significantly impede the flow of floodwaters.

- D. Agricultural uses conducted without locating a structure in the floodplain district including a boundary fence designed to minimize the obstruction of floodwaters and flood-carried debris.
- E. Community recreational uses such as bicycle and pedestrian paths, archery range, athletic field or parks. The recreational use shall not include any permanent structures causing a significant obstruction to the flow of floodwaters.
- F. Public and private conservation areas for the conservation of water, soil, open space, forest or wildlife resources.

SECTION 2 - Prohibited Uses and Activities - The following uses and activities are prohibited in Greenways except pursuant to special permit granted by the Planning Commission based on findings as provided herein.

- A. Filling;
- B. Permanent structures permitted in other zoned areas of the City, except those provided as permitted uses;
- C. Dumping of garbage, rubbish, debris, junk, or any other waste;
- D. Excavating;
- E. Removing any live vegetation other than poison oak, tansy ragwort, blackberry or any other noxious vegetation identified by the City Recorder.
- F. Subsurface sewerage disposal septic tanks and drain fields.
- G. Any temporary structure which by its nature cannot be readily removed from the floodplain area during periods of flooding and which would significantly impede or interfere with the flow of floodwaters within the district;
- H. Any change in the topography or terrain which would have a substantial tendency to change the flow of waters during flooding periods or which would increase flood hazard or alter the direction or velocity of the floodwater flow.

SECTION 3 - Non-Conforming Uses - Any pre-existing condition or structure within the Greenway district is subject to the non-conforming use provisions of this Code.

SECTION 4 - Special Permits or Exceptions - Application for a "Special Use Permit" may be approved or denied by the Planning Commission following a public hearing. All applications for a Special Use Permit shall be supported by the following information to enable the Planning Commission to adequately determine whether the proposed use will conform to the purposes and guidelines as set forth in this Chapter. At the applicant's expense, the City shall reserve the right to retain a registered professional engineer with

experience in hydraulic principles and processes for the purpose of reviewing evidence submitted in support of any application for Special Use Permits.

- A. Plans drawn to scale, submitted in triplicate as prepared by a registered professional engineer with experience in hydraulic and hydrologic principles and processes showing the nature, location, dimensions, elevations, and topography of the site; the location of existing and proposed structures located upon the site; existing and proposed fill areas, and the relationship of these to the location of the stream channel and proposed methods for controlling erosion.
- B. Any documentation, photographs, water marks, and similar evidence offered in support of the claim that the site or area in question lies above high water as defined by the regulatory flood.
- C. If it is determined by the Planning Commission that the proposed use is within the 100-year floodplain as herein defined, the applicant shall furnish such further information, data and evidence as may be reasonably available to support the granting of the permit in accordance with the following guidelines, in the absence of which said petition shall be denied by the Planning Commission.
 - 1. Proposed improvements will not change the flow of floodwaters during future flooding such as to cause a compounding of flood hazards and to thereby seriously interfere with the intent and purposes of the floodplain district regulations.
 - 2. No structure, fill, storage or other uses shall be permitted which would reduce the capacity of the floodplain area or raise the flood surface elevation on adjacent properties, or create a present or foreseeable hazard to public health, safety and general welfare.
- D. Affirmative documentation that the proposed action will not adversely impact runoff, erosion, ground stability, water quality, ground water level, or flooding and that the site can support the proposed modification or structure without damage to adjacent properties.
- E. A copy of the permit required by the State of Oregon under ORS 541, for removal or filling of waterways, or positive evidence demonstrating that the provisions of this statute do not apply.

SECTION 5 - Standards for Permitted Structures - Any structure or additions to existing structures permitted within the Greenways shall comply with the following standards:

- A. Permitted structures, such as electrical and service equipment, etc., shall be constructed at or above the regulatory flood protection elevation. Utility openings shall be sealed and locked.

- B. The lowest flood elevation of a structure designed for human occupancy shall be at least one and one-half feet above the flood surface elevation.
- C. The lower portions of any structure shall be flood-proofed or otherwise protected from significant damage or inundation to a minimum flood surface elevation of the regulatory flood.
- D. The design of substructures and structural members of all buildings shall be designed to withstand expected water pressure and velocities as well as minimize flood risk conditions.
- E. The provisions of Chapter 70 ("Excavation and Grading") of the Uniform Building Code shall apply to all buildings. on or adjacent to steeply sloping land.

ARTICLE 3 - TREATMENT OF CREATED HARDSHIPS

It is the intention of this City to acquire for public use all lands within the Greenways. All developments which include portions of the Greenways will be conditioned to dedicate appropriate lands to the City if and when development takes place. This will create certain hardships. It will be the policy of the City to allow increased density of buildable portions of effected lands in exchange for public dedications, or other applicable allowances as determined by either the Planning Commission or the City Council.

Additional allowances shall mean, but shall not be limited to additional parking within the areas increased building coverage on the buildable land portion, increased height, etc. It must be realized that the City will protect the community's interests generally and is able to use its authority to do so.

ARTICLE 4 - APPEAL TO CITY COUNCIL

An appeal of any decision by the Planning Commission may be filed with the City Recorder for hearing by the City Council within 10 days of decision.

ARTICLE 5 - THE U.S. ARMY CORPS OF ENGINEERS

The Corps of Engineers floodplain study and the CH2M Hill storm water drainage study be made a part of this Code following receipt of the studies and adoption of this Code.

CHAPTER VI - ADMINISTRATIVE PROVISIONS

ARTICLE I - LEGISLATIVE LAND USE ACTION

SECTION 1 - Definition: Any action affecting the land use designations, findings, and/or policies identified in the Durham Comprehensive Plan shall be deemed a land use action; administration of all land use actions shall be as outlined by the Code.

SECTION 2 - Petition for Land Use Action - A land use action may be initiated by an order of the City Council, a resolution by a majority of the whole Planning Commission, or by an applicant having standing in the City of Durham. Unless authorized by an order of the City Council, all petitions for land use action shall be considered in accordance with the review process described herein. If authorized by an order of the City Council, a petition for land use action may be considered at any time prior to the review process. In such an instance the review procedures for land use action shall be followed.

SECTION 3 - Review - The review of the Comprehensive Development Plan and implementing ordinances shall be according to the LCDC periodic review schedule beginning on September 1. The petition deadline will be sixty (60) days prior to the first regularly scheduled meeting in November. Each such petition for land use action shall contain information including, but not limited to, the following:

- A. Abstract, stating the general purpose of petition.
- B. Words, terms, sections, articles, chapters, or ordinances proposed for change, replacement, elimination or addition, using specific citations and references.
- C. Maps, tables or sketches showing how petition would affect specific properties, areas, locations and land uses of the City.
- D. How the proposed change would comply with statewide planning goals.
- E. How the public is best served with implementation of proposed

change. SECTION 4 - Filing of Petition, Fees, Preliminary Review as to

Form

- A. Petitions for land use change shall be filed before the annual review deadline with the City Recorder. Petitions shall be made available to the public and shall remain on file until such time as the disposition of the petition is clearly settled.
- B. There shall be fees assessed for petitions for land use actions which are filed in accordance with the review process. The City Council may set fees for all petitions for land use actions.
- C. The City Recorder shall conduct a preliminary review of petitions for land use change to ensure that such petition is complete as to form. If the Recorder determines that any part of the petition is deficient, such determination shall be made not later than 15 days after the filing deadline. The City Recorder may propose specific

modifications of the petition to the applicant. The applicant shall have until 30 days after the filing deadline to supply such additional information as may be required by the City Recorder. However, failure to supply such additional information shall not prevent consideration of the petition.

SECTION 5 - Notice of Public Hearing on Legislative Land Use Petition

A. Notice of the initial hearing before the Planning Commission shall contain the following information:

1. The date, time, and place of the hearing.
2. The nature of the proposed proceeding.
3. A description of how property(ies) may be affected by the change, including identification of specific property(ies) to be affected.
4. Notification that all interested parties may appear and be heard.
5. Notification that the initial hearing may be continued from time to time to date(s) and time(s) certain without additional published notice.

B. Notices shall be sent by first class mail to the following persons:

1. The applicant.
2. Notice of legislative matter under this ordinance shall be by actual notice to the property owners of record within 250' of specific affected property, and shall be given to the community as a whole by posting notice in at least two conspicuous places within the area containing affected property and at City Hall. Notice shall be published in a newspaper of general circulation at least twice and a copy of the notice posted at City Hall.
3. All local, state and federal government agencies which the City Recorder determines to have an interest in the hearing.

C. Notice of legislative proceeding shall be given by publication in a newspaper of general circulation in the area effected at least fifteen (15) days prior to the date of the initial hearing.

SECTION 6 - Public Hearing and Procedures at Hearing

A. The initial public hearing on petitions for land use change shall be conducted by the Planning Commission. All petitions for land use change shall be considered during

the same initial public hearing. The order of consideration of petitions shall be by the order in which petitions were first filed with the City Recorder, unless the Chairman of the Planning Commission and the applicant(s) agree on altering the order of consideration. Procedures at the initial hearing shall include the following:

The Planning Commission Chairman shall announce the petition to be considered.

2. The City Recorder shall make a summary reading of the petition only for the purpose of informing the general audience of the nature of the petition.
 3. The applicant(s) shall make a presentation. Additional information not included in the initial petition may be presented.
 4. All other persons desiring to testify on the petition shall make their presentations in an order determined by the Planning Commission Chairman.
- B. Challenges to Impartiality - Any interested persons or member of a hearing body may challenge the qualification of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall be in writing and shall state the facts relied upon by the challenger relating to bias, prejudice, personal or pecuniary interest or other facts from which the challenger concludes that a member of the hearing cannot participate in an impartial manner. All challenges shall be made a part of the record.
- C. An abstaining or disqualified member of a hearing body may be counted for purposes of forming a quorum. A member who represents his/her personal interest at a hearing shall do so only by abstaining from voting on the proposal, physically joining the audience, vacating the seat on the hearing body, and making full disclosure of his/her role at the time he/she addresses the body.

If all members of a hearing body are disqualified or abstain, all members present shall state their reasons for abstention or disqualification and after doing so shall be considered re-qualified and may proceed to resolve the issues before them.

A member absent during the presentation of evidence at a hearing shall not participate in the deliberation or decision on the matter until he/she reviews the evidence.

SECTION 7 - Continuation of Hearing, Deliberations

- A. The Planning Commission may continue the legislative public hearing to a time and date certain, and may specify the nature of the items to be considered.
- B. Deliberations by the Planning Commission on any petition shall begin after the close of the legislative hearing. Deliberations shall be made only during scheduled meetings of the Planning Commission.

SECTION 8 - Burden of Proof - The burden of proof is on the proponent. In all cases, the burden of proof shall be the preponderance or greater weight of the creditable evidence. All the proposal must be supported by proof that it complies with the applicable elements of the Plan and to applicable provisions of this ordinance. These must include the specific criteria and standards as set forth for the particular type of proposal or action.

SECTION 9 - Findings Required for Legislative Action - In recommending adoption of any land use change, the Planning Commission shall find the following:

- A. The petition for land use change meets the definition of such change described in this Code.
- B. The change affects a class of property(ies) or persons.
- C. The change is consistent with statewide and regional planning goals.

SECTION 10 - Recommendation - By a vote of the majority of the whole number of Planning Commission members, a land use change may be recommended by resolution to be adopted by the City Council. Such resolution shall be delivered to the City Council and shall contain the following:

- A. A copy of the initial petition for legislative land use change.
- B. A copy of the minutes of the hearing and meeting(s) at which the petition was considered and deliberated upon.

SECTION 11 - Final Order for Legislative Land Use Action - The City Council shall conduct a public hearing in accordance with its rules for hearings on any resolution for legislative land use change made by the Planning Commission. This shall be a review hearing and need not be a full evidentiary hearing. After the hearing, and in accordance with its rules, the City Council may adopt the proposed legislative land use change and order its incorporation into the Comprehensive Development Plan, Land Development Code, or other implementing ordinances.

SECTION 12 - Appeals - Should the Planning Commission not recommend adoption of any proposed legislative land use change, an appeal to the City Council may be made in accordance with the provisions for appeal described in this Code.

ARTICLE 2 - QUASI-JUDICIAL

ACTIONS SECTION I - Quasi-Judicial Proceedings,

Generally

- A. Quasi-judicial proceedings shall be required of all applications for: quasi-judicial plan map amendment, quasi-judicial zone change, conditional use, variance, temporary permit, subdivision and major partitioning, and non-conforming uses.
- B. A quasi-judicial proceeding, unless otherwise specifically provided for in this Code, may only be initiated by order of the City Council, or a majority of the whole Planning Commission, or by the petition of the owner or contract purchaser of subject property.
- C. A quasi-judicial proceeding initiated by the petitioner shall be filed with the City Recorder on forms prescribed by the Planning Commission. Any application which is incomplete by reason of failing to contain such information deemed necessary to inform the reviewing body as to the nature of the proceeding applied for shall be denied.

SECTION 2 - Definitions of Actions Requiring Quasi-Judicial Proceedings

- A. Quasi-Judicial Map Amendment - An applicant for a Plan map amendment shall bear the burden of satisfying each of the following criteria:
 - 1. Demonstration of the public need for the change, and why the need is best served by the proposal.
 - 2. Demonstration that the public need can best be served on the proposed site in comparison with other comparable, alternative vacant sites of similar size that are already designated for the proposed use.
 - 3. Compliance with appropriate Comprehensive Plan policies.
 - 4. Approval of the proposal will not adversely affect adjacent properties.
 - 5. Availability of necessary public facilities and services, and what expansions, additions, or other modifications would be required for these services in order to accommodate the proposed land use change.
 - 6. Significant change in circumstances or conditions of the subject site or the surrounding area that supports amending the original Plan.
 - 7. Conformance with statewide planning goals as established by the Oregon Land Conservation and Development Commission.
- B. Quasi-Judicial Zone Change - An applicant for a Zone Change shall demonstrate that the proposal can comply with the development standards prescribed in the requested zoning district.

C. Conditional Uses - Conditional uses listed in this Code may be permitted or altered upon authorization by the Planning Commission. In permitting a conditional use or the modification of a conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified in this Code, any additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding property(ies) or the City as a whole.

1. Purpose and Intent - It is the intent of this chapter to provide a set of procedures and standards for conditional uses of land or structures which, because of their unique characteristics relative to locational features, design, size, operation, circulation and public interest or service, require special consideration in relation to the welfare of adjacent properties and the community as a whole. It is the purpose of the regulations and standards set forth below to:

- a) Allow, on one hand, practical latitude for utilization of land and structures, but at the same time maintain adequate provision for the protection of the health, safety, convenience and general welfare of the community and adjacent properties; and
- b) Provide machinery for periodic review of conditional use permits to provide for further conditions to more adequately assure conformity of such uses to the public welfare.

1. Siting Criteria - The provisions of this chapter are designed to provide siting criteria for the conditional uses specified herein and guidelines for the imposition of additional conditions not specifically provided for herein, to the end that such uses will:

- a) Be consistent with the intent and purpose of the planning district in which it is proposed to locate such use, meet the requirements of the Durham Development Plan with regard to providing benefit to the general welfare of the public, and fill a probable need of the public which can best be met by a conditional use at this time and in this place.
- b) Comply with the requirements of the planning district within which the conditional use is proposed and in accordance with conditions attached to such use under the authority of this chapter.

3. Criteria for Review of Conditional Uses - The Planning Commission may allow a conditional use, after a hearing conducted pursuant to Chapter VI, Article 2, provided that the applicant provides evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied, and further provided that the applicant demonstrates that the proposed use also satisfies the following criteria:

- a) The use is listed as conditional use in the underlying planning district.
 - b) The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.
 - c) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.
 - d) The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.
 - e) The proposal satisfies those objectives and policies of the Community Plan that are applicable to the Proposed Durham use.
4. Authority and Planning Commission Action - The Planning Commission may approve, approve with conditions, or deny the application for a conditional use permit. In permitting a conditional use, the Planning Commission may impose, in addition to the regulations and standards expressly specified in this chapter, other conditions found necessary to protect the best interests of the surrounding property or neighborhood or the City as a whole. The conditions may include requirements increasing the required lot size or yard dimensions, controlling the location and number of vehicular access points to the property, increasing street width, requiring dedication of additional right-of-way and improvement of the same, increasing the number of off-street parking or loading spaces required, limiting the number of signs, limiting the coverage or height of buildings because of obstruction to view or reduction of light or air to adjacent property, requiring sight-obscuring fencing and landscaping where necessary to reduce noise or glare or maintain the property in a character in keeping with the surrounding area, and requirements under which any future enlargements or alteration of the use shall be reviewed by the Planning Commission. The Planning Commission may also attach additional conditions requiring that the conditional use be reviewed by the Planning Commission on or before a specified date certain, further providing that the Planning Commission may impose further conditions upon such review if such further conditions are consistent with this chapter and requirements specifying the hours of use of an activity upon the subject property to insure that the conditional use is compatible with the existing and proposed surrounding uses. In no event shall this chapter be used as a means to exclude multi-family housing from the City.
5. Authority of Design Review Board to Impose Conditions - In those cases where the proposed conditional use must be approved by the Design Review Board under applicable provisions of the Community Development Code, the Design Review Board may attach conditions to such conditional uses of land in addition to those conditions imposed by the Planning Commission. Such additional conditions may

include, but shall not be limited to, setback requirements, screening, off-street parking and loading, construction standards and maintenance. All such additional conditions may be imposed if it is found by the Design Review Board that they are necessary to provide for or protect public health, safety or general welfare, and that such conditions are consistent with the purpose and intent of this chapter.

6. Application for Conditional Use - A request for a conditional use, modification of an existing conditional use permit, or a review of an existing conditional use permit shall be initiated by a property owner or his authorized agent by filing an application with the Planning Department. The applicant shall submit a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The application shall be accompanied by a fee established by Durham Resolution 63-81.

7. Public Hearing for a Conditional Use - Before acting on a request for a conditional use permit, a proposed conditional use shall be considered by the Planning Commission at a public hearing conducted in the manner provided for in Durham Code Chapter VI, Article 2. The Planning Commission may recess a hearing on a request for a conditional use permit in order to obtain additional information or serve further notices upon property owners or persons who it decides may be interested in or affected by the proposed conditional use. Upon recessing for this purpose, the Commission shall announce the time, place and date when the hearing will be resumed.

8. Revocation of Conditional Use Permit

a) Any previously granted conditional use permit may be revoked by the Planning Commission after a hearing conducted in the manner required for approval of a conditional use permit initially, upon the following grounds:

- 1) Failure to comply with the conditions of approval.
- 2) Discontinuance of the use for a period in excess of 1 year.
- 3) Failure to comply with other applicable provisions of the Durham Community Plan regarding design, dimensional or use requirements.
- 4) A change in the Durham Community Development Plan or Planning District Standards of the planning district within which the use is located that have the effect of no longer.. allowing a new conditional use permit application to be considered in such planning district.

b) Revocations initiated under Section 8. a. above shall not be initiated for at least 6 months after approval of the conditional use permit. Revocations initiated under 8. a. (1), (2) and (3) above shall have the effect of making the previously granted conditional use permit void until a new application is submitted and granted. Revocations initiated under 8. a. (4) above shall have the effect of making the previously granted conditional use a non-conforming use.

9. Automatic Termination of Conditional Use

a) Unless otherwise provided by the Planning Commission in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void 1 year after the effective date upon which it was granted unless one of the following events occurs:

- 1) The applicant or his successor in interest has secured a building permit within said 1-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said 1-year period.
- 2) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said 1-year period.

b) The applicant may submit a request to the Planning Commission for an extension of time on the conditional use permit to avoid the permit's becoming null and void. The request for extension must be filed with the City Recorder prior to the expiration of the times established by Subsection "a" above. The City may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year.

D. Variances - The Planning Commission may grant a variance to dimensions required in zones only in the event that all of the following conditions are found:

1. Exceptional or extraordinary circumstances apply to the property which do not apply to other property in the same zone or vicinity, and results from lot size or shape existing legally prior to the date of adoption of this Code, topography, or other circumstances over which the applicant has no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity.
3. The variance would not be materially detrimental to the purposes of this Code or to property in the same zone or vicinity, or otherwise conflict with the objectives of the Code and Plan.
4. The variance requested is the minimum variance which would alleviate hardship.

E. Temporary Permits - Temporary uses listed in this Code may be permitted or altered upon authorization by the Planning Commission. In permitting a temporary use or the modification of a temporary use, the Planning Commission may impose, in addition to those standards and requirements expressly specified in this Code, any

additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding property(ies) or the City as a whole. In issuing Temporary

Use Permits, the Planning Commission shall specify the date of expiration of such permit. In no event shall a temporary Permit be issued for more than one (I) year, without being renewed by the Planning Commission after review in public hearing.

F. Subdivision and Major Partitioning - Partitioning of land resulting in subdivision or major partitioning, as defined in this Code.

G. Development Review - Application for development review provided under Chapter III, Article 4 of this Code.

H. Non-Conforming Uses

1. Continuation of Non-Conforming Use or Structure - Subject to the provisions of ORS 215.130, and subsequent provisions of this Code, a lawful non-conforming structure or use may be continued. The extension of a lawful non-conforming use to a portion of a structure which was arranged or initiated for the lawful non-conforming use at the time of passage of this Code is not considered an enlargement or expansion of a non-conforming use.

2. Discontinuance of Non-Conforming Use

a) If a non-conforming use involving a structure is discontinued or if a non-conforming trailer house or mobile home is removed for a period of one (I) year, further use of the property shall conform to this Code.

b) If a non-conforming use not involving a structure is discontinued for a period of six (6) months, it shall not be reestablished unless specifically approved by the Planning Commission.

3. Change of Non-Conforming Use

a) If a non-conforming use not involving a structure is replaced by another use, the new use shall conform to this Code.

b) If a non-conforming use involving a structure is replaced by another use, the new use shall conform to this Code unless the Planning Commission determines that such structure is suitable only for another non-conforming use no more detrimental to surrounding property(ies) than the one replaced.

4. Destruction of Non-Conforming Use - If a non-conforming structure or use is destroyed by any cause to an extent exceeding 80 percent of its fair market value, as

indicated by the records of the Washington County Assessor, and is not returned to use within one (1) year from the date of destruction, a future structure or use on the site shall conform to this Code, except that replacement of non-conforming signs shall be in accordance with provisions of this Code.

5. Completion of Structure - Nothing contained in this Code shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction work has commenced prior to the adoption of this Code, provided the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two (2) years from the date the building permit is issued.
6. Enlargement or Expansion of a Non-Conforming Use - A non-conforming use existing at the time that zoning was or is adopted in the area of such use, or changed in the area, may be expanded if the Planning Commission finds that such expanded use meets all conditions for variance.

SECTION 3 - Application Process for a Quasi-Judicial Proceeding

- A. Pre-Application Conference - A pre-application conference between the applicant and the City Recorder, or a designated representative, shall be conducted within 10 days from receipt of application to ensure the following:
 1. The application is consistent with the substantive matters relevant to procedural provisions of the Plan and Code;
 2. The applicant is aware of all procedural matters relevant to processing the application for a quasi-judicial proceeding; and
 3. The applicant is aware of the responsibilities and type of information required of the applicant in order to fully inform the reviewing body.
- B. Community Development Conference - Upon submitting an application for a residential subdivision, planned residential development, multi family development, business park, office park or industrial park, the applicant shall be required to discuss the proposed development with all affected and interested City residents as provided in this section. The meeting shall be termed a "community development conference."
 1. Purpose. The purpose of the community development conference is to identify potential issues or conflicts regarding an application so that they may be addressed by the developer prior to the more formalized review of the Planning Commission. This community contact is intended to result in a better and more expedient review process and lessen the expense of the review process by avoiding needless delays, appeals, remands or denials. The City expects an applicant to

consider all reasonable concerns and recommendations of citizens during the entire review process.

2. Upon receipt of an application for development as described above, the City shall cause a letter to be sent to all individuals, organizations, and associations who have expressed an interest in being on the City's development notification list, in addition to all property owners and City residents within 300 feet of the proposed building site. In addition to the letters, the City Administrator shall cause to be sent a copy of the criteria to be used by the Planning Commission when it considers the proposed application for preliminary review.
3. The letters shall be sent by first class mail and shall briefly describe the nature of and location of the proposed development, the date, time and location of the meeting, and shall invite all interested persons to the meeting to discuss the application in more detail. The meeting shall be scheduled during the evening hours after 6:00 p.m. or on a Saturday not less than twenty (20) days from the date of mailing of the notice. The meeting shall be held in a location open to the public within the boundaries of the City or at a facility regularly utilized for meetings by the City of Durham.
4. On the same date as the letters described in Section 2 and 3 of this section are mailed, the City shall post public notice at Durham City Hall and on the property subject to the proposed development. The date, time and location of the meeting, the type of proposed development and the name of the applicant shall be included in the notice. The notices shall remain posted until the conclusion of the meeting.
5. The City shall record and keep minutes of the meeting and retain such minutes in the same manner as all Planning Commission minutes are retained.
6. A preliminary review shall not be scheduled before the Planning Commission until all steps in the community development conference are - completed, pursuant to the provisions of Section 4B. of this Article. A good faith effort by the City to comply with all conditions of this section shall not be deemed a reason to deny the application. The terms of this section shall be deemed as full compliance with the provisions thereof.
7. The applicant shall be required to submit a \$250 community development conference fee in addition to any and all other fees charged by the City. The community development conference fee shall cover all City costs associated with mailings, staff time and all other community development conference related fees. If the City costs exceed the initial \$250 payment, the applicant shall be required to pay the additional actual costs.

C. Notice of Public Hearings on Proposed Quasi-Judicial Proceedings

1. Notice of the initial hearing before the Planning Commission shall contain the following information:
 - a) The date, time, and location of the hearing.
 - b) A description of the property, reasonably calculated to give notice as to its actual location, which shall include the street address or easily understood geographical reference to the subject property.
 - c) An explanation of the nature of the application and the proposed use or uses which could be authorized.
 - d) A list of the applicable criteria from the ordinance and plan that apply to the application at issue.
 - e) A statement that failure of an issue to be raised in the hearing, either in person or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.
 - f) The name of the City representative to contact and the telephone number where additional information may be obtained.
 - g) A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are presently available for inspection at no cost and will be provided at reasonable cost.
 - h) A statement 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.
 - i) Notification that all interested parties may appear and be heard.
 - j) A general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.
 - k) Notification that the hearing may be continued to a date(s) and time(s) certain without additional published notice.
 - l) Notification that the hearing shall be held pursuant to the rules of procedure adopted by the City Council and Planning Commission respectively, for the conduct of such hearing pursuant to this Code.
2. At least twenty (20) days prior to the date of the public hearing, notices shall be sent by mail to the following persons:
 - a) The applicant.
 - b) All property owners within at least 250 feet of the property which is the subject of the application. The most recent property tax assessment roll of Washington County shall be used, and persons whose names and addresses are not on file at the time of application need not be notified of the proceeding.
3. Notice of quasi-judicial proceedings shall be given by publication in a newspaper of general circulation in the area affected at least twenty (20) days prior to the date of the public hearing. Such notice shall also be posted in or at the City Hall at least twenty (20) days prior to the date of such public hearing.

SECTION 4 - Initial Hearing on Quasi-Judicial Application

- A. Hearings shall be conducted in accordance with the rules of procedure adopted by the Planning Commission and/or City Council for the conduct of quasi-judicial proceedings, including the following requirements:
1. At the commencement of the hearing, a statement shall be made to those in attendance that:
 - a) Lists the applicable substantive criteria.
 - b) States that testimony and evidence must be directed toward the criteria described in paragraph a. above or other criteria in the plan or land use regulations which the person believes to apply to the decision.
 - c) States that failure to raise an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.
 2. Whenever the Planning Commission reopens the record 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.
 3. The failure of the property owner to receive notice as herein provided shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was given.
- B. The Commission shall hold at least one (1) public hearing on an application within 60 days of receipt thereof, unless such time limitation be extended with the written consent of the applicant.
- C. The decision of the Planning Commission may be to approve the application as submitted, to deny the application, or to approve the application with on-site conditions as may be necessary to comply with the Plan and Code. Alternative recommendations may be substituted by the Commission subject to the following:
1. An alternative zone change is in the same general classification and complies with the Plan.
 2. The City Recorder shall have included in the public hearing notice that such additional considerations may be reviewed by the Commission.
 3. The applicant may elect to refuse to accept the alternative recommended by the Commission.
 4. Any alternative action shall be based upon findings justifying the alternative action.

All decisions made by the Commission and/or Council shall be based upon findings approved by the reviewing body and entered into the record.

- D. At least seven (7) days prior to the hearing date on a proposed quasi-judicial proceeding, the City Recorder shall make available to the public the staff report reviewing the application. A copy of such report shall be sent to the members of the Planning Commission, the applicant, the City Attorney, and other City departments which have an interest. Reports may also be sent to other persons requesting this information. Such other persons may be charged a reasonable fee representing the cost of reproduction and overhead as determined by the City Recorder.

If additional documents or evidence is provided in support of the application later than seven (7) days prior to a continuance of the 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, which requires final action on a permit application within 120 days.

- E. If final determination on an application is for denial by the Commission, the Council, or the Courts, no new application for the same of substantially similar proceeding shall be filed at least six (6) months from the date of the final order.

SECTION 5 - Pre-Hearing Contacts - No members of the Planning Commission or the City Council shall:

- A. Communicate directly or indirectly with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to appear and participate; nor
- B. Take notice of any communication, reports, staff memoranda, or other material prepared in connection with the particular case unless the parties and general public are afforded an opportunity to consider such material and contest the material so noticed; nor
- C. Inspect the site with any party or his representative unless all parties are given an opportunity to be present.

SECTION 6 - Continuation of Public Hearing - The reviewing body may continue from time to time the public hearing to gather additional information on the application, and no additional notice need be given if the motion for continuation is to a time, date, date, and location certain; unless additional notice in a specified manner is ordered by the reviewing body.

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. Such an extension shall not be subject to the limitations of ORS 227.178. However, final action by the Planning Commission shall be rendered within 120 days from submission of a complete application.

SECTION 7 - Orders - After every proceeding and at the conclusion of the deliberation of the reviewing body and the making of a decision pertaining to the application, the designated representative of the reviewing body shall read the decision of the reviewing body either denying or approving the application.

- A. The findings upon which the reviewing body bases its decision shall be included in every decision and such findings shall be supported by designated evidence introduced into the record of the proceedings.
- B. All conditions imposed upon approval shall be enumerated and the following limitations shall be applicable to conditional approval:
 - 1. Conditions shall be fulfilled within the time limitations set forth in the approval thereof or, if not, time may be reset reasonably.
 - 2. Such conditions shall be reasonably conceived to fulfill public needs as recognized by the Plan and emanating from the proposed land use as set forth in the application in the following respects:
 - a) Protection of the public from potentially deleterious effects of the proposed use; and/or
 - b) Fulfillment of the need for public service demands created by the proposed use.
 - 3. Changes or alterations of conditions required by the reviewing body shall be processed as a new quasi-judicial proceeding.
 - 4. Such conditions relating to situations occurring on the site of the proposed land use, consideration may be set forth in a contract executed between the City Council, acting-by and through the Mayor, and the property owner and any contract purchasers. If a contract be required, no building permits for the use applied for shall be issued nor shall the use applied for be deemed approved until such properly executed contracts is filed with the City Recorder. Such contract shall be properly signed and executed within 30 days after approval of the application with conditions provided, however, that the Council may grant reasonable time extensions in cases of practical difficulty. Such contracts shall not restrict the power of subsequent administrative action with or without conditions. In return for the granting of the application, the property owner, contract purchaser and their heirs, successors, or assigns in recognition of the need occasioned by the applicant, shall perform those conditions set forth therein for the benefit of the public's health, safety and welfare. Said contract shall be enforceable against the signing parties, their heirs, successors and assigns by the City by appropriate action at law or suit in equity. Such ability to contract does not apply to conditions that relate to situations located off the site of the proposed land use considerations.

5. Failure to fulfill any condition of the grant of application within the time limitations provided may be grounds for the initiation of legal or quasi-judicial proceeding to revoke the original action taken at the quasi-judicial proceeding.
6. A bond, in a form acceptable to the City Recorder, or a cash deposit from the property owner or contract purchasers in such an amount as will assure compliance with the conditions imposed pursuant to this section, may be required. Such bonds shall be posted at the time the contract containing the conditions for approval is filed with the City Recorder.
- C. Within ten (10) days after the determination by the reviewing body the City Recorder shall provide a written and duly executed order commemorating the action of the reviewing body to the applicant and those parties providing a written request, with mailing address, for such notification.

SECTION 8 - Appeal

- A. The decision of the Planning Commission shall be final unless a petition of appeal is filed with the City Recorder, or by registered mail return receipt requested, within ten (10) days of the signing of the order and findings of fact.

An issue which may be the basis for an appeal to the State Land Use Board of Appeals 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 Planning Commission and the parties an adequate opportunity to respond to each issue.

- B. Every petition of appeal filed shall contain the following:
 1. A reference of the application sought to be reviewed.
 2. The date of decision of the Planning Commission's action.
 3. A statement of the interest of the party filing the petition for appeal, setting forth all criteria necessary and upon which he will rely to establish his standing as an aggrieved party.
 4. The specific grounds relied upon in this petition for appeal, setting forth with particularity the error and the basis of error sought to be reviewed.
 5. Failure to comply with requirements of this subsection and to set forth said contentions with particularity, shall be a jurisdictional defect and result in the dismissal of the appeal by operation of this Code.
 6. The petition for appeal shall be accompanied by the required fee.

C. The petition for appeal shall be reviewed by the City Council in accordance with its own adopted rules of procedure and this Code. The Council shall review the recommendation of the Planning Commission by review of the record only.

D. Action by the Council

1. The Council may affirm, reverse, or amend the action of the Planning Commission and may grant approval subject to additional conditions reasonably necessary to carry out the Plan as provided herein. The Council may also remand the matter back to the Planning Commission for additional findings and information or to make a determination consistent with the decision of the Council. For all cases, the Council shall make findings as justification for its action. Said findings and order shall be filed with the City Recorder with copies sent to the parties affected.
2. Action by the Council shall become final upon signing of the order and findings of fact.
3. Appeal of the Council action shall be made according to Oregon State Law. Should the action of the Council be affirmed on appeal, the costs of transcribing the tape recordings plus attorney's fees incurred, may be recovered from the unsuccessful applicant.

ARTICLE 3 ENFORCEMENT, EXCEPTIONS, MISCELLANEOUS PROVISIONS, FEES

SECTION I - Enforcement

A. Land Use Permits

1. Before any change in the use of land or structure shall be made, the owner or his agent shall obtain a Land Use Permit, which shall be issued only if the proposed use complies with the provisions of this Code and any other applicable ordinance.
2. Uses of land or structures existing at the effective date of this Code and which comply with the applicable provisions of this Code shall be deemed to be in compliance with this section and no permit shall be required unless a change in the use of land or a structure is to be made.
3. In cases where a building permit is required, such building permit shall be deemed to be a Land Use Permit.

B. Utility Extension - No utility franchised by the Oregon Public Utilities Commissioner and no special service district providing water and sanitary sewers shall provide services to any new building, structure, or site, or any service lines to such building,

structure, or site for which a building permit or siting permit has not been obtained.

- C. Penalties - This Code may be enforced in any manner now or hereafter authorized by law. Any person using land in violation of this Code shall be punished, upon conviction, by a fine of not more than \$100 for each day of violation where the offense is a continuing offense, but such fine may not exceed \$1,000. Or a fine of not more than \$500 where the offense is not a continuing offense. In addition, the City Council, the District Attorney, or a person whose interest in real property in the City of Durham is or may be affected by the violation may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, or abate the unlawful use.

SECTION 2 - Exceptions

- A. If a lot or the aggregate of contiguous lots as recorded in the office of the City Recorder prior to the time this Code was adopted, has an area or dimension which does not meet the lot size requirements of the zone on which the property is located, the holding may nevertheless be occupied by a use permitted in the zone. If there is an area deficiency, residential use shall be limited to single family dwelling units. No dwelling unit shall be built on a lot with less than 4,000 square feet.
- B. The City Recorder may authorize the alteration of boundary lines of adjoining properties provided that no new lots are created and provided that each lot size and dimension resulting after the boundary adjustment conforms with the schedule for development standards of the remaining portions thereof.

SECTION 3 - Miscellaneous Provisions

- A. Interpretation - Where the conditions imposed by any provision of this Code are less restrictive than comparable conditions imposed by any other provisions of this Code or of any other ordinance or resolution, the provisions which are more restrictive shall govern. Where ambiguities are found in the true meaning or intentions of this Code, the Planning Commission may clarify such ambiguities by rendering interpretations.
- B. Authorization of Similar Uses - The Planning Commission may permit in a particular zone a use not listed in this Code, provided the use is of the same general type as the uses permitted there by this Code.
- C. Contract Purchaser Deemed Owner - A person or persons purchasing property under contract, for the purposes of this Code, shall be deemed the owner or owners of the property covered by the contract. The Planning Commission or City Council may require satisfactory evidence of such contract of purchase.
- D. Surveying - In order to avoid possible error of description, the Planning Commission may require a land survey as part of the application for zoning map change, variance, conditional use, temporary or other permit.

SECTION 4 - Fees - The City Council shall set fees as may be deemed necessary to properly act on land use applications covered by this Code.

City of Durham Zoning

RF 1:6,000 1" = 500'


Single Family Residential (SF)

Multi-Family (MF)

Office Park (OP)

Industrial Park (IP)

Greenway (G)

 Density Bonus for Planned Residential Development (DB-PRD)



Business Park Overlay (BP)



Greenway Overlay (GO)



City Boundary