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# City Municipal Code Results

City of Enterprise  
Land Use Ordinance

Editor's Note: This appendix contains the Land Use Ordinance adopted by Ord. 507, passed April 28, 1997, as amended.

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# City Municipal Code Results

## ARTICLE I

### INTRODUCTORY PROVISIONS

#### Section 1.010. TITLE.

This ordinance shall be known as the City of Enterprise Land Use Ordinance.

#### Section 1.020. PURPOSE.

The purpose of this ordinance is to encourage appropriate and orderly physical development without diminishing the desirability of the town's living and recreating space, considering such standards as open space, desired levels of population density, adequate community safety, convenience, and general welfare. It is also intended to implement the provisions of the Land Use Plan for the City of Enterprise.

#### Section 1.030. DEFINITIONS.

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

1. **ACCESS.** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
2. **ACCESSORY USE OR ACCESSORY STRUCTURE.** A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.
3. **AIRPORT.** Any area of land within the city which is used, or intended for use, for the landing and take-off aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together, with all airport buildings and facilities located thereon, with the exception that independent aircraft hangars shall not be considered as an airport building or facility as defined herein.
4. **AIRPORT CLEAR ZONE.** A protective zone under the approaches to the Enterprise Municipal Airport which has been adopted as an area to be free of buildings and structures in order to comply with the requirements of Federal and Oregon State laws regarding protections of airport approaches.
5. **AIRPORT COMMERCIAL FACILITY.** An airport commercial facility shall be a building that may contain a car rental business, aviation parts and accessories shop, aircraft and repair shops, aircraft sales and rental businesses, and such other enterprises that are provided in conjunction with, and not independent of, the normal operation of an airport.
6. **AIRPORT HAZARD.** An airport hazard shall mean any structure or tree or use of land which unreasonably obstructs the landing or taking-off of aircraft.
7. **APPLICANT.** The person or entity who applies for a permit or other land use approval required by this ordinance.
8. **BASE FLOOD.** The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the '100-year flood.' Designation on maps always includes the letters A or V.
9. **BLOCK.** A parcel of land bounded by streets, railroads rights-of-way, waterways, parks, unsubdivided acreage, boundary line of a recorded subdivision, or a combination thereof.
10. **BUILDING.** A structure, but not a trailer house or mobile home, built for support, shelter or enclosure of persons, animals, chattels, or property of any kind having a fixed base on or fixed connection to the ground.
11. **BUILDING LINE.** A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.
12. **CITY.** The City of Enterprise, Wallowa County, Oregon.
13. **CITY RECORDER.** The City Recorder to the City of Enterprise, Wallowa County, Oregon.
14. **COMMISSION.** The Planning Commission of the City of Enterprise, Wallowa County, Oregon.
15. **COUNCIL.** The City Council of the City of Enterprise, Wallowa County, Oregon.
16. **DEDICATION.** An act of dedicating to a certain use or the setting aside for a particular purpose.
17. **DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or land division.

18. **DIVIDING LAND.** The process of separating a parcel of land or a lot in a subdivision into a number of lots by subdivision or parcels by partitioning.
19. **DWELLING, MULTI-FAMILY.** A building or portion thereof, designed for occupancy by three (3) or more families living independently of each other.
20. **DWELLING, SINGLE-FAMILY.** A detached building containing one (1) dwelling unit and designed for occupancy by one (1) family, including, without limiting the foregoing, a manufactured home and a modular or prefabricated home as defined herein, but excluding a mobile home, residential trailer or recreational vehicle as defined herein.
21. **DWELLING, TWO-FAMILY (DUPLEX).** A detached building containing no more than two (2) dwelling units and intended for occupancy by no more than two (2) families.
22. **EASEMENT.** The grant of the right to use a strip of land for specific purposes.
23. **FARM USE.** 'Farm use' means the current employment of land by raising, harvesting and selling crops or by the feeding, breeding, and management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honey bees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. 'Farm use' includes the erection and maintenance of fences but does not include the construction or use of a farm use structure, as defined below.
24. **FARM USE STRUCTURE.** 'Farm use structure' includes any structure, other than a fence, designed for use, or actually used, in conjunction with a farm use, as for example (without limiting the foregoing) a barn, hay shed or grain silo.
25. **FENCE.** In addition to the normal meaning of the word a fence shall include hedges, shrubbery and other sight-obscuring vegetation.
26. **FLOOD.** A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - A. The overflow of inland or tidal waters;
  - B. The unusual and rapid accumulation or runoff of surface waters from any source.
27. **FLOODPROOFING.** Any combination of structural and nonstructural additions, changes, or adjusts to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
28. **GRADE.** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5') feet from the building, between the building and a line five (5') feet from the building.
29. **HABITABLE FLOOR.** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a 'habitable floor.'
30. **HOME OCCUPATION.** A lawful occupation carried on by a resident of a dwelling as an accessory use within the same dwelling.
31. **LAND USE PLAN.** The City of Enterprise Land Use Plan, and all amendments thereto, adopted to comply with Oregon planning law and Oregon's Statewide Planning Goals and Guidelines.
32. **LOT.** A parcel or tract of land; A unit of land that is created by a subdivision of land.
  - A. **CORNER LOT.** A lot or portion thereof situated at the intersection of two (2) or more streets other than alleys where the two (2) streets bordering the lot run in more than one (1) line of compass; rectangular corner lots have two (2) front lot lines and two (2) side yard lines.
  - B. **REVERSE CORNER LOT.** A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.
  - C. **THROUGH LOT.** A lot having frontage on two (2) parallel or approximately parallel streets other than alleys.
  - D. **FLAG LOT.** A parcel which has a narrow neck of land connecting the building site to the street.
33. **LOT AREA.** The total horizontal area within the lot lines of a lot exclusive of street and easements of access to other property.
34. **LOT LINE.** The property line bounding a lot.
35. **LOT LINE ADJUSTMENT.** An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where any existing units of land reduced in size by the adjustment comply with the dimensional standards of this ordinance and as relates to existing structures, the setback requirements of this ordinance.
36. **LOT LINE, FRONT.** The lot line separating the lot from the street other than an alley. In the case of a corner lot both lot lines abutting the streets are front lot lines. In the case of a through lot each street has a front lot line.
37. **LOT LINE, REAR.** The lot line which is opposite and most distant from the front lot line. In the case of a corner lot, the lot lines other than the front lot lines shall be considered side lot lines. In the case of an irregular, triangular or other shaped lot, a line ten (10') feet in length within the lot parallel to and at a maximum distance from the front lot line.
38. **LOT LINE SIDE.** Any lot line not a front or rear lot line.
39. **LOT WIDTH.** The average horizontal distance between the side lot lines, generally measured parallel to the front lot line.
40. **MANUFACTURED HOME.** A manufactured home is a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. Mobile homes, as defined in subparagraph 43, modular and prefabricated homes, as defined in subparagraph 44, 'residential trailers,' as defined in ORS 446.003(25)(a)(A) and 'recreational vehicles,' constructed in accordance with the requirements

of Oregon State law, are not manufactured homes.

41. **MAP.** A final diagram, drawing or other writing concerning a major partition.

42. **MOBILE HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976 and met the construction requirements of the Oregon Mobile Home law in effect at the time of construction. A 'residential trailer,' as defined in ORS 446.003(25)(a)(A) and a 'recreational vehicle,' constructed in accordance with the requirements of Oregon State law, are not mobile homes. A mobile home shall consist of one of the three following classifications:

A. **TRIPLE-WIDE:** Three (3) separate housing units expressly manufactured to be connected together to form one (1) single-family residence.

B. **DOUBLE-WIDE:** Two (2) separate housing units expressly manufactured to be connected together to form one (1) single-family residence.

C. **SINGLE-WIDE:** One (1) housing unit expressly manufactured to serve as one (1) single-family residence.

43. **MODULAR AND PREFABRICATED HOMES:** Modular and prefabricated homes are constructed in accordance with the State of Oregon building code promulgated under ORS Chapter 455. A modular home is constructed off site and moved on site as a single unit or in sections. A prefabricated home is erected on site from smaller prefabricated components such as wall sections which are manufactured off site.

44. **MOBILE HOME PARK.** A place where four (4) or more mobile homes, manufactured homes, or recreational vehicles are located within five hundred (500') feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space, or keep space for rent, to any person for a charge or fee paid, or to be paid, for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

45. **NONCONFORMING STRUCTURE OR 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.

46. **NURSING HOME.** A facility, other than in a single-family dwelling or duplex, used to provide a place or residence for two (2) or more unrelated persons who, due to physical disability or old age, require care, supervision or assistance in their day to day living activities.

47. **OPEN SPACES.** Those lands within a subdivision which have been dedicated in common to the ownership within the subdivision or the public specifically, for the purpose of providing a place of recreation, scenic or historic/educational purposes.

48. **OWNER.** An owner of property or the authorized agent of an owner, as shown by deed or contract and recorded in the Wallowa County Clerk's office. The individual, firm, associates, syndicate, partnership or corporation having fee Title and/or interest in the land to be subdivided or partitioned, or contract purchaser under a recorded land sale contract, and having a right to commence and maintain proceedings under these regulations.

49. **PARCEL.** A unit of land that is created by a partitioning of land.

50. **PARTITION.** Either an act of partitioning land or an area or tract of land partitioned as defined in this section:

A. **MAJOR PARTITION.** A partition which includes the creation of a street.

B. **MINOR PARTITION.** A partition which does not include the creation of a street.

51. **PARTITIONER.** Any person commencing proceedings under this ordinance to effect a partition of land hereunder for himself or herself, or another.

52. **PARTITION LAND.** To divide an area or tract of land into two(2) or three (3) parcels within a calendar year when such area or tract of land exists as a unit or contiguous units under single ownership at the beginning of such year. When one (1) parcel is sold or otherwise transferred and the seller retains a larger parcel contiguous thereto, the land has been divided into two (2) parcels and a partition is required under this ordinance. 'Partition land' does not include divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; and divisions of land made pursuant to a court order, including but not limited to court orders in proceedings involving testate or interstate succession; and 'partition land' does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards of this ordinance. 'Partition land' does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

53. **PEDESTRIAN WAY.** A right-of-way for pedestrian traffic other than a dedicated street right-of-way.

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

55. **PLANNED UNIT DEVELOPMENT.** A planned development for which approval is sought under the provisions of this ordinance.

56. **PLAT.** The final map, diagram, drawing, replat or other writing containing all the descriptions and information concerning a subdivision or partition.

57. **RECORD.** To file a document or other instrument with the office designated by law for filing said instrument.

58. **RECREATIONAL VEHICLE.** A vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and includes what is commonly known as a camper, travel trailer or



motor home.

59. **RESERVE STRIPS and STREET PLUGS.** Strips of land deeded to the City as city property required along streets and street ends to prevent access across these strips.

60. **RESIDENTIAL FACILITY.** A residential care, residential treatment facility licensed or registered by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.460 or licensed by the Children's Services Division under ORS 418.205 to 418.327 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six (6) to fifteen (15) individuals who need not be related. Staff person required to meet licensing requirement shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential facility.

61. **RESIDENTIAL HOME.** A residential treatment or training or an adult foster home licensed by or under the authority of the department as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five (5) or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

62. **RESIDENTIAL INSTITUTION.** A residential care, residential treatment facility licensed or registered by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.460 or licensed by the Children's Services Division under ORS 418.205 to 418.327 which provides residential care alone or in conjunction with treatment or training or a combination thereof for fifteen (15) or more who need not be related. Staff persons required to meet licensing requirement shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential institution.

63. **RESUBDIVISION.** The resubdividing of land in a different manner from that which originally had been subdivided.

64. **SIGN.** An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, person, institution or business.

65. **SIGN, OFF PREMISE.** A sign, including billboards, placards, posters, drawings and so on, which advertises:

A. Goods products or services which are not sold, manufactured or distributed on or from the premises on which the sign is located; or  
B. Facilities not located on the premises on which the sign is located.

66. **SIGN, ON PREMISE.** A sign, including billboards, placards, posters, drawings and so on, which advertises:

A. Goods, products or services which are sold, manufactured or distributed on or from the premises on which the sign is located; or  
B. Facilities located on the premises on which the sign is located.

67. **SLOPE EASEMENT.** A grant or right to use a strip of land for the purpose of constructing an embankment or earth slopes and required for the purpose of maintaining or creating a safe and stable topographical condition.

68. **STORM DRAINAGE SYSTEM.** A system of open and closed drainage ways designed to protect and carry storm water runoff away from the site.

69. **STORY.** The portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six (6') feet above grade for more than fifty (50%) percent of the total perimeter or is more than twelve (12') feet above the grade at any point, such basement, cellar or unused under-floor space shall be considered as a story.

70. **STREET.** The entire width between the right-of-way boundary lines of every public or private way provided for use for vehicular and pedestrian traffic, providing ingress or egress for persons to one (1) or more lots, parcels, areas or tracts of land and the placement of utilities, and including 'road,' 'highway,' 'lane,' 'place' or similar designations.

A. **ALLEY.** A narrow street no more than twenty (20') feet in width, a passage or way open to public travel, utilities and dedicated to public use, affording only secondary means of access to abutting property, not intended for general traffic circulations.

B. **ARTERIAL.** A street of considerable continuity which is primarily for intercommunication between large areas, and identified as an arterial street in the Land Use Plan.

C. **COLLECTOR.** A street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; used partly by through traffic and partly for access to abutting property.

D. **CUL-DE-SAC (Dead End Street).** A short street with one end open to traffic and the other terminated by a vehicle turnaround.

E. **HALF STREET.** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

F. **MARGINAL ACCESS STREET.** A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

G. **MINOR STREET.** A street intended primarily for access to abutting properties.

H. **PRIVATE STREET.** Non-public streets serving more that one (1) lot. A private way serving only one lot is not a street.

71. **STRUCTURE.** Something constructed or built, or a piece of work artificially built up or composed of parts joined together in some definite manner.

72. **STRUCTURAL ALTERATION.** A change to the supporting members of a structure including foundations, bearing walls or

partition, columns, beams, girders or any structural change in the roof or in the exterior walls.

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

74. SUBDIVISION. Either an act of subdividing land or an area or tract of land subdivided as defined in this section.

75. SUBDIVIDER. Any person commencing proceedings under this ordinance to effect a subdivision of land here-in-under for himself or herself, or for another.

76. SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either, a) before the improvement or repair is started, or b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of the definition 'substantial improvement' is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

77. SUPERINTENDENT. The Superintendent of Public Works for the City of Enterprise, Willowa County, Oregon.

78. TENTATIVE PLAN. A clearly legible approximate drawing of the proposed lay-out of streets, blocks, lots and other elements of a subdivision or partition which will help furnish a basis for the Commission's approval or disapproval of the general lay-out of a subdivision or partition.

79. USE or USES. The purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

80. YARD. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.

81. YARD, FRONT. A yard between side lot lines and measured horizontally at right angles to the front lot line, or lines, from the front lot line to the nearest point of a building or other structure. In the case of a corner lot the front yard is a yard adjacent to both streets, usually in an 'L' shape, measured horizontally and at right angles from the front lot lines to the nearest point of a building or structure.

82. YARD, REAR. A yard between side lot lines and measured horizontally at right angles from the rear lot line to the nearest point of a building or other structure. A rectangular corner lot has no rear yard.

83. YARD, SIDE. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building or other structure. In the case of rectangular corner lots, the yards other than the front yards are side yards.

84. ZONING MAP. A zoning map or zoning map amendment adopted by the Council Section 2.020 of this ordinance or by an amendment thereto shall be prepared or modified by authority of the Council. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. An original certified print of the adopted map or map amendment shall be maintained in the office of the City Recorder as long as this ordinance remains in effect.

#### Section 1.040. COMPLIANCE WITH ORDINANCE.

A lot or land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this ordinance permits.

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# City Municipal Code Results

## ARTICLE 2

### ESTABLISHMENT OF ZONES

#### Section 2.010. CLASSIFICATION OF ZONES.

For the purpose of this ordinance the following zones are hereby established:

#### ZONE

#### ABBREVIATED DESIGNATION

Residential, single-family dwellings

R-1

Residential, two-family dwellings

R-2

Residential, multi-family dwellings

R-3

Commercial

C-1

Commercial/Industrial

C-2

Central Business District

CBD

View - Commercial

C-V

Airport Zone

A-1

Hospital Zone

H-1

#### Section 2.020. ADOPTION OF ZONING MAP AND LOCATION OF ZONES.

The boundaries for the zones listed in this ordinance are indicated on the zoning map which is hereby adopted by reference. The boundaries shall be modified in accordance with the provisions of the Land Use Plan and with zoning map amendments which shall be adopted by reference.

#### Section 2.030. ZONE BOUNDARIES.

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad rights-of-way, or such lines extended.

#### Section 2.040. ZONING OF ANNEXED AREAS.

Areas annexed to the city shall be zoned at the time of annexation, and shall relate to the provisions of the Land Use Plan and state statutes.

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# City Municipal Code Results

## ARTICLE 3

### USE ZONES

#### Section 3.010. SINGLE-FAMILY DWELLING ZONE REGULATIONS, R-1 USES.

1. **USES PERMITTED OUTRIGHT.** In an R-1 zone, the following uses and their accessory uses, subject to the limitations and restrictions contained herein, shall be permitted outright:

A. Single-family dwellings of a permanent character, provided however, that manufactured homes are permitted only in compliance with the following:

- 1) The manufactured home shall have exterior siding and roofing which in color, materials and appearance is similar to the exterior siding and roofing material commonly used in residential dwellings within the city;
- 2) The manufactured home shall have a pitched roof of a slope not less than a nominal three (3') feet in height for each twelve (12") feet in width;
- 3) Except in a mobile home park, foundations shall be of continuous concrete or continuous concrete footings with masonry blocks installed thereon; skirting shall be of either concrete or masonry blocks and installed on a continuous footing;
- 4) The manufactured home shall be situated upon a lot or parcel according to all city and state laws;
- 5) The manufactured home shall be multi-sectioned; single-wide manufactured homes are not permitted.

B. Private greenhouses, horticultural collections, flower and vegetable gardens.

C. Public and private parks, ball fields and playing fields.

D. Farm use, when in compliance with all applicable ordinances of the City of Enterprise.

E. Residential home, provided the structure meets the requirements for this zone relating to single-family dwellings and manufactured homes.

F. Streets, alleys, and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television distribution facilities.

2. **CONDITIONAL USES PERMITTED.** In an R-1 zone, the following uses and their accessory uses may be permitted when authorized in accordance with ARTICLE 6 and the criterion contained in this section.

A. Community building.

B. Churches.

C. Schools - public or private.

D. Home occupations.

E. Accessory buildings not meeting the standards specified in subparagraph 4D of this section.

F. Farm use structures.

G. Golf Courses.

H. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities, or natural gas main transmission lines.

#### 3. **CONDITIONAL USE CRITERIA.**

A. Home occupations may be allowed upon a finding by the Commission:

- 1) That there will be no alteration in the residential character of the premises herewith;
- 2) That the home occupation will not alter the residential character of the neighborhood;
- 3) That no articles of merchandise shall be displayed for advertising purposes;
- 4) That signs or advertising devices relative thereto shall not exceed six (6') square feet in area;
- 5) That the home occupation will not be objectionable due to noise, dust, smoke, odors, increased traffic, or other similar causes;
- 6) That any equipment or materials required in connection with the home occupation shall be stored within an enclosed structure or

screened from public view;

7) That new accessory structures not residential in character, such as a shop or other structure, required in conjunction with the home occupation meet the requirements of subparagraph 4D of this section; and

8) That a maximum of one employee, other than members of the applicant's family who are related by blood or marriage and resident in the applicant's household, be utilized in said home occupation.

B. Community buildings, churches and schools, public or private, and farm use structures may be authorized by the Commission in accordance with ARTICLE 6 upon findings that:

1) The proposed use or structures will not significantly alter the residential character of the neighborhood;

2) Negative impact due to noise, traffic, or other cause upon the dwellings in the vicinity may be mitigated due to screening, buffering, and building location.

C. Accessory structures not meeting the standards set forth in subparagraph 4C of this section, relating to accessory uses permitted outright may be permitted upon a finding that:

1) The accessory use structure complies with subparagraphs 4A through 4C of this section, relating to accessory uses; and

2) Considering the size of the proposed use or structure, the size of the lot on which it is situated and the nature and proximity of the uses and structures adjacent to the lot or parcel upon which said structure is to be situated, the scale of the building is consistent with maintenance of the residential character of the vicinity.

D. All other conditional uses permitted in the R-1 zone may be authorized by the Commission in accordance with ARTICLE 6 upon findings that:

1) The proposed use or structure will not significantly alter the residential character of the neighborhood; and

2) Negative impact due to noise, traffic, or other cause upon dwellings in the vicinity may be mitigated due to screening, buffering, and building location.

E. All conditional, uses approved pursuant to this subsection shall comply with the minimum lot size, lot width, yard size, off street parking requirements and building height provisions of this zone, unless a waiver is obtained pursuant to the exceptions provisions of this ordinance.

#### 4. ACCESSORY USES.

A. Except as provided in subparagraph 7 of this section, no accessory structures shall be located within the minimum front yards, rear yards, or side yards, required by this ordinance.

B. All accessory use buildings shall be either anchored to a foundation in accordance with the requirements of the State of Oregon building code and, if not on foundations, shall be anchored by alternative means adequate to secure the structure from movement due to winds.

C. Both the intended use of the accessory use structure and the use normally incident to the type and size of accessory use structure proposed shall be subordinate and incidental to a permitted use of the property.

D. Accessory use buildings smaller than seven hundred fifty (750') square feet in an area, lower than eighteen (18') feet in height and width eaves less than twelve (12') feet in height, measured from grade, and in the case of building height, to the peak of the roof, are permitted outright provided, however, that one, two (2) and three (3) car garages of customary size are permitted outright even if they exceed seven hundred fifty (750') square feet in size.

5. LOT SIZE. Every dwelling hereafter erected shall have a lot area not less than ten thousand (10,000') square feet per single-family dwelling, except that for all lots not serviced by the city's sewerage system, the lot area shall be at least fifteen thousand (15,000') square feet and comply with all applicable state sanitation laws and codes.

6. LOT WIDTH. The minimum lot width at the front building line shall be eighty (80') feet.

#### 7. SETBACKS AND REQUIRED YARD AREA.

A. The dwelling or other primary use structure and all structures accessory thereto, attached to said dwelling or other primary use structure, shall be set back 1) twenty (20') feet from the front yard line or lines, 2) five (5') feet from each side yard line, and 3) twenty (20') feet from the rear yard line.

B. The Setbacks required by subparagraph A. create the required front yards, side yards and rear yards, as defined in Section 1.030, and in the case of corner lots and through lots, the required front yards and side yards.

C. Detached accessory buildings or structures, meeting the standards specified in subparagraph 4D of this section, shall be set back from lot lines as specified in subparagraph 7A of this section, except that the setback from the rear yard line may be reduced to five (5') feet if there will remain one thousand six hundred (1,600') square feet of rear yard area not covered by buildings or structures.

D. In the case of irregularly shaped lots, or other circumstances where the required setbacks and yard areas, and the definitions related thereto, are difficult to apply, the Commission may establish minimum yard areas and setbacks consistent with the policy of this ordinance, to-wit; maintenance of uniform minimum setbacks from public streets and lot lines and maintenance of minimum open spaces.

8. REQUIRED PARKING SPACE. There shall not be less than two (2) off street parking spaces for each living unit.

9. BUILDING HEIGHT. Height should be limited to two and one-half (2 1/2) stories and not to exceed thirty-five (35') feet above grade.

10. VIEW CORRIDOR REVIEW. If a proposed building or structure will materially impact the views of the Wallowa Mountains from existing residences in the area, or of a future residence which might be sited on a vacant lot which is suitable for residential use, then the site shall receive view corridor review pursuant to Section 10.350.

11. DWELLING STANDARDS. All dwelling units shall be installed in accordance with following standards.

A. Permanent steps of either concrete, masonry or wood construction be installed at all entry ways to the dwelling. Wood steps shall be set on buried concrete footings, and shall include at least a four (4') foot by six (6') foot landing in front of the door; the perimeter of the steps shall be enclosed and risers installed between steps;

B. All dwellings shall either be newly constructed onsite or if a manufactured home or a modular or prefabricated home, shall be new and shall not have been previously occupied as dwelling unit prior to installation at the site; and

C. Except in mobile home parks, the owner of the dwelling shall be the owner of the real property upon which the dwelling is situate.

### Section 3.020. TWO-FAMILY DWELLING ZONE REGULATIONS, R-2.

1. USES PERMITTED OUTRIGHT. In an R-2 zone, the following uses and their accessory uses, subject to the limitations and restrictions contained herein, shall be permitted outright:

A. Single-family dwellings of a permanent character, together with manufactured homes and double-wide and triple-wide mobile homes, provided however, that manufactured homes and double-wide and triple-wide mobile homes, are permitted only in compliance with the following:

1) The manufactured home or double-wide or triple-wide mobile home shall have exterior siding and roofing which in color, materials and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings with the city;

2) The manufactured home, or double-wide or triple-wide mobile home shall have a pitched roof of a slope not less than nominal three (3') feet in height for each twelve (12') feet in width;

3) Except in a mobile home park, foundations shall be of continuous concrete or continuous concrete footings with masonry blocks installed thereon; skirting shall be of either concrete or masonry blocks and installed on a continuous footing;

4) The manufactured home, or double-wide or triple-wide mobile home, shall be situated upon a lot or parcel according to all city and state laws;

5) A manufactured home shall be multi-sectioned; single-wide manufactured homes are not permitted.

B. Private greenhouses, horticultural collections, flower and vegetable gardens.

C. Public and private parks, ball fields and playing fields.

D. Duplexes or two-family dwellings, and garages accessory thereto, not to exceed space for two (2) cars per dwelling unit.

E. Farm use, when in compliance with all applicable ordinances of the city.

F. Residential Home, provided that all new structures meet the requirements for this zone relating to single-family dwellings and manufactured homes.

G. Streets and alleys and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television distribution facilities.

2. CONDITIONAL USES PERMITTED. In an R-2 zone, the following uses and their accessory uses may be permitted when authorized in accordance with ARTICLE 6 and the criteria contained in this section:

A. Community buildings.

B. Churches.

C. Home occupations.

D. Government uses.

E. Multi-family dwellings, not to exceed four (4) single-family units.

F. Commercial nurseries or greenhouses.

G. Accessory structures not meeting the standards specified in subparagraph 4D of this section.

H. Equipment or truck storage as defined in subparagraph 3E of this section.

I. Farm use structures.

J. Residential facilities, not to exceed four (4) living units.

K. Schools.

L. Golf Courses.

M. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities, or natural gas main transmission lines.

N. Medical Clinics, if located on a lot or parcel lying adjacent to a hospital. As used herein, a lot is considered adjacent to a hospital if the same is only separated from the hospital by an intervening street or alley.

3. CONDITIONAL USE CRITERIA.

A. Home occupations may be allowed upon a finding by the Commission:

1) That there will be no alteration in the residential character of the premises therewith;

- 2) That home occupation will not alter the residential character of the neighborhood;
- 3) That no articles of merchandise shall be displayed for advertising purposes;
- 4) That signs or advertising devices relative thereto shall not exceed six (6') square feet in area;
- 5) That the home occupation will not be objectionable due to noise, dust, smoke, odors, increased traffic, or other causes;
- 6) That any equipment or materials required in connection with the home occupation shall be stored within an enclosed structure or screened from public view;
- 7) That new accessory structures not residential in character, such as a shop or other structure, required in conjunction with the home occupation meet the requirements of subparagraph 4D of this section; and
- 8) That a maximum of one employee, other than members of the applicant's family, who are related by blood or marriage and resident in the applicant's household, be utilized in said home occupation.

B. Accessory structures not meeting the standards set forth in subparagraph 4D of this section, (relating to accessory structures permitted outright) may be permitted upon a finding that:

- 1) The accessory use structure complies with subparagraph 4A through 4C of this section relating to accessory uses; and
- 2) Considering the size of the proposed use or structure, the size of the lot on which it is situate and the nature and proximity of the uses and structures adjacent to the lot or parcel upon which said structure is to be situate, the scale of the building is consistent with maintenance of the residential character of the vicinity.

C. Equipment or truck storage in conjunction with the owner's business conducted off premises, (as for example a self employed trucking business) and buildings designed for said storage, may be permitted upon a finding that:

- 1) The amount of equipment stored is modest, and in the case of trucks, does not exceed one (1) unit;
- 2) With respect to storage buildings, considering the size of the proposed storage building, the size of the lot on which it is situated and the nature and proximity of the uses and structures adjacent to the lot or parcel upon which said building is to be situate, the scale of the building is consistent with maintenance of the residential character of the vicinity; and
- 3) With respect to storage of equipment other than within a storage building, that considering the size of the lot, the proximity of the storage to other uses, proposed screening, if any, and other factors, the proposed storage is consistent with maintenance of the residential character of the vicinity.

It shall be a condition of all such permits that storage of equipment outside the confines of enclosed storage buildings be conducted in a neat and clean fashion and that no equipment be stored which is in disrepair, or not in regular current use. It shall further be a condition of any such permit that all parts be stored within the confines of an enclosed building.

D. All other conditional uses permitted in the R-2 zone may be authorized by the Commission in accordance with ARTICLE 6 upon findings that:

- 1) The proposed use or structure will not significantly alter the residential character of the neighborhood; and
- 2) Negative impact due to noise, traffic, or other cause upon dwellings in the vicinity may be mitigated due to screening, buffering, and building location.

E. All conditional uses approved pursuant to this subparagraph shall comply with the minimum lot size, lot width, yard size, off street parking requirements and building height provisions of this zone, unless a waiver is obtained pursuant to the exceptions provisions of this ordinance.

#### 4. ACCESSORY USES.

A. Except as provided in subparagraph 7 of this section, no accessory use structures shall be located within the minimum front yards, rear yards, or side yards, required by this ordinance.

B. All accessory use structures shall be either anchored to a foundation in accordance with the requirements of the State of Oregon building code and if not on foundations, shall be anchored by alternative means adequate to secure the structure from movement due to winds.

C. Both the intended use of the accessory use structure and the use normally incident to the type and size of the accessory use structure proposed shall be subordinate and incidental to a permitted use of the property.

D. Accessory use buildings smaller than seven hundred fifty (750') square feet in area, lower than eighteen (18') feet in height and with eaves less than twelve (12') feet in height measured from grade, and in the case of building height, to the peak of the roof, are permitted outright provided, however, that one (1), two (2) and three (3) car garages, of customary size are permitted outright even if they exceed seven hundred fifty (750') square feet in size.

5. LOT SIZE. The minimum lot area shall be six thousand six hundred (6,600') square feet provided that for each family dwelling unit over two (2), the minimum lot area shall be increased one thousand (1,000') square feet per additional unit. For all lots not serviced by the city's sewage system, the lot area shall be at least fifteen thousand (15,000') square feet provided that for each family dwelling unit over two (2), the minimum lot area shall be increased by one thousand (1,000') square feet per additional unit, and that the lot shall comply with all applicable state sanitation laws and codes.

6. LOT WIDTH. The minimum lot width at the front building line shall be sixty (60') feet.

#### 7. SETBACKS AND REQUIRED YARD AREA.

A. The dwelling or other primary use structure and all structures accessory thereto, attached to said dwelling or other primary use



structure, shall be set back 1) twenty (20') feet from the front yard line or lines, 2) five (5') feet from each side yard line, and 3) twenty (20') feet from the rear yard line.

B. The setbacks required by subparagraph A of this section, create the required front yards, side yards and rear yards, as defined in Section 1.030, and in the case of corner lots and through lots, the required front yards and side yards.

C. Detached accessory buildings or structures, meeting the standards specified in subparagraph 4D of this section, shall be setback from lot lines as specified in subparagraph A of this section, except that the setback from the rear yard line may be reduced to five (5') feet if there will remain one thousand two hundred (1200') square feet of rear yard area not covered by buildings or structures.

D. In the case of irregularly shaped lots, or other circumstances where the required setbacks and yard areas, and the definitions related thereto, are difficult to apply, the Commission may establish minimum yard areas and setbacks consistent with the policy of this ordinance, to wit; maintenance of uniform minimum setbacks from public streets and lot lines and maintenance of minimum open spaces.

8. **REQUIRED PARKING SPACE.** There shall not be less than one and one-half (1 1/2) parking spaces for each living unit.

9. **BUILDING HEIGHT.** Height should be limited to two and one-half (2 1/2) stories and not to exceed thirty-five (35') feet above grade.

10. **VIEW CORRIDOR REVIEW.** If a proposed building or structure will materially impact the views of the Wallowa Mountains from existing residences in the area, or of a future residence which might be sited on a vacant lot which is suitable for residential use, then the site shall receive view corridor review pursuant to Section 10.350.

11. **SITE PLAN REVIEW.** The City may require and use authorized as a conditional use except triple-wide and double-wide mobile homes and accessory structures, receive site plan review pursuant to ARTICLE 10, CHAPTER III of this ordinance prior to issuance of a permit, provided however, that new uses or expansions of existing uses, established in or incident to an existing structure, and involving no new structures and no change in vehicle and pedestrian access, shall not require site plan review.

12. All dwellings units shall be installed in accordance with the following standards:

A. Permanent steps of either concrete, masonry or wood construction. Wood steps shall be set on buried concrete footings, and shall include at least a four (4') foot by six (6') foot landing in front of the door; the perimeter of the steps shall be enclosed and risers installed between steps; and

B. Except in mobile home parks, the owner of the dwellings shall be the owner of the real property upon which the dwelling is situate.

### Section 3.030. MULTIPLE FAMILY ZONE REGULATIONS, R-3.

1. **USES PERMITTED OUTRIGHT.** In an R-3 zone, the following uses and their accessory uses, subject to the limitations and restrictions contained herein, shall be permitted outright:

A. Single-family dwellings of a permanent character, together with manufactured homes and double-wide and triple-wide mobile homes, provided however, that manufactured homes and double-wide and triple-wide mobile homes, are permitted only in compliance with the following:

1) The manufactured home or double-wide or triple-wide mobile home shall have exterior siding and roofing which in color, materials and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the city;

2) The manufactured home or double-wide or triple-wide mobile home shall have a pitched roof of a slope not less than a nominal three (3') feet in height for each twelve (12') feet in width;

3) Except in a mobile home park, foundations shall be of continuous concrete or continuous concrete footings with masonry blocks installed thereon; skirting shall be of either concrete or masonry blocks and installed on a continuous footing; and

4) The manufactured home or double-wide or triple-wide mobile home shall be situated upon a lot or parcel according to all city and state laws; and

5) A double-wide or triple-wide mobile home shall be multi-sectioned; single-wide mobile homes are not permitted. Single sectioned manufactured homes (single-wide manufactured homes) are permitted if installed in accordance with the requirements of this section.

B. Private greenhouses, horticultural collections, flower and vegetable gardens.

C. Public and private parks, ball fields and playing fields.

D. Duplexes or two-family dwellings.

E. In other than single-family dwellings, garage space for not more than two (2) cars per dwelling unit.

F. Multi-family dwellings.

G. Churches.

H. Farm uses, when in compliance with all applicable ordinances of the city.

I. Residential homes, provided that all new structures meet the requirements for this zone relating to single-family dwellings and manufactured homes.

J. Residential facilities.

K. Streets and alleys and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television distribution facilities.

L. Single-wide and double-wide mobile homes, within a mobile home park.

2. **CONDITIONAL USES PERMITTED.** In an R-3 zone, the following uses and their accessory uses may be permitted when authorized in accordance with ARTICLE 6 and the criterion contained in this section.

- A. Community buildings.
- B. Schools - public or private.
- C. Home occupations.
- D. Mobile home park.
- E. Government uses not allowed under subparagraph 1 of this section.
- F. Circuses, fairs and carnivals,
- G. Commercial greenhouses or nurseries.
- H. Accessory structures not meeting the standards specified in subparagraph 4D of this section.
- I. Equipment or truck storage as defined in subparagraph 3E of this section.
- J. Farm use structures.
- K. Residential institutions.
- L. Nursing homes.
- M. Hospitals.
- N. Golf Courses.
- O. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities, or natural gas main transmission lines.

3. **CONDITIONAL USE CRITERIA.**

A. Home occupations may be allowed upon a finding by the Commission:

- 1) That there will be no alteration in the residential character of the premises therewith;
- 2) That home occupation will not alter the residential character of the neighborhood;
- 3) That no articles of merchandise shall be displayed for advertising purposes;
- 4) That signs or advertising devices relative thereto shall not exceed six (6') square feet in area;
- 5) That the home occupation will not be objectionable due to noise, dust, smoke, odors, increased traffic, or other causes;
- 6) That any equipment or materials required in connection with the home occupation shall be stored within an enclosed structure or screened from public view;
- 7) That new accessory buildings not residential in character, such as a shop or other structure, required in conjunction with the home occupation, meet the requirements of subparagraph 4D of this section; and
- 8) That a maximum of one employee, other than members of the applicant's family who are related by blood or marriage and resident in the applicant's household, be utilized in said home occupation.

B. Accessory buildings not meeting the standards set forth in subparagraph 4D of this section, (relating to accessory uses permitted outright) may be permitted upon a finding that:

- 1) The accessory use structure complies with subparagraphs 4A through 4C of this section, relating to accessory uses; and
- 2) Considering the size of the proposed use or structure, the size of the lot on which it is situate and the nature and proximity of the uses and structures adjacent to the lot or parcel upon which said structure is to be situate, the scale of the building is consistent with maintenance of the residential character of the vicinity.

C. Equipment or truck storage in conjunction with the owner's business conducted off premises, (as for example a self employed trucking business) and buildings designed for said storage, may be permitted upon a finding that:

- 1) The amount of equipment stored is modest, and in the case of trucks, does not exceed one unit;
- 2) With respect to storage buildings, considering the size of the proposed storage building, the size of the lot on which it is situate and the nature and proximity of the uses and structures adjacent to the lot or parcel upon which said building is to be situate, the scale of the building is consistent with maintenance of the residential character of the vicinity; and
- 3) With respect to storage of equipment other than within a storage building, that considering the size of the lot, the proximity of the storage to other uses, proposed screening, if any, and other factors, the proposed storage is consistent with maintenance of the residential character of the vicinity.

It shall be a condition of all such permits that storage of equipment outside the confines of enclosed storage buildings be conducted in a neat and clean fashion and that no equipment be stored which is in disrepair, or not in regular current use. It shall further be a condition of any such permit that all parts be stored within the confines of an enclosed building.

D. All other conditional uses allowed in the R-3 zone may be authorized by the Commission in accordance with ARTICLE 6 upon findings that:

- 1) The proposed use or structure will not significantly alter the residential character of the neighborhood; and
- 2) Negative impact due to noise, traffic, or other cause upon the dwellings in the vicinity may be mitigated due to screening, buffering, and building location.
- 3) All conditional uses approved pursuant to this subsection shall comply with the minimum lot size, lot width, yard size, off street

parking requirements and building height provisions of this zone, unless a waiver is obtained pursuant to the exceptions provisions of this ordinance.

#### 4. ACCESSORY USES.

A. Except as provided in subparagraph 7D, no accessory use structures shall be located within the minimum front yards, rear yards, or side yards, required by this ordinance.

B. All accessory use structures shall be either anchored to a foundation in accordance with the requirements of the State of Oregon building codes and, if not on foundations, shall be anchored by alternative means adequate to secure the structure from movement due to winds.

C. Both the intended use of the accessory use structure and the use normally incident to the type and size of accessory use structure proposed shall be subordinate and incidental to a permitted use of the property.

D. Accessory use buildings smaller than seven hundred fifty (750) square feet in area, lower than eighteen (18') feet in height and with eaves less than twelve (12') feet in height measured from grade, and in the case of building height, to the peak of the roof, are permitted outright provided, however, that one (1), two (2) and three (3) car garages, of customary size are permitted outright even if they exceed seven hundred fifty (750) square feet in size.

5. LOT SIZE. The minimum lot area shall be six thousand six hundred (6,600') square feet provided that for each family dwelling unit over two (2), the minimum lot area shall be increased one thousand (1,000') square feet per additional unit. For all lots not serviced by the city's sewage system, the lot area shall be at least fifteen thousand (15,000') square feet provided that for each family dwelling unit over two (2), the minimum lot area shall be increased by one thousand (1,000') square feet per additional unit, and that the lot shall comply with all applicable state sanitation laws and codes.

6. LOT WIDTH. The minimum width at the front building line shall be sixty (60') feet.

#### 7. SETBACKS AND REQUIRED YARD AREA.

A. The dwelling or other primary use structure and all structures accessory thereto, attached to said dwelling or other primary use structure, shall be set back, 1) twenty (20') feet from each side yard line and 2) twenty (20') feet from the rear yard line.

B. The setbacks required by subparagraph A of this section, create the required front yards, side yards and rear yards, as defined in Section 1.030, and in the case of corner lots and through lots, the required front yards and side yards.

C. Detached accessory buildings or structures, meeting the standards specified in subparagraph 4D of this section, shall be set back from lot lines as specified in subparagraph A of this section, except that the setback from the rear yard line may be reduced to five (5') feet if there will remain one thousand two hundred (1,200') square feet of rear yard area not covered by buildings or structures.

D. In the case of irregularly shaped lots, or other circumstances where the required setbacks and yard areas, and the definitions related thereto, are difficult to apply, the Commission may establish minimum yard areas and setbacks consistent with the policy of this ordinance, to-wit; maintenance of uniform minimum setbacks from public streets and lot lines and maintenance of minimum open spaces.

8. REQUIRED PARKING SPACE. There shall not be less than one and one-half (1 1/2) parking spaces for each living unit.

9. BUILDING HEIGHT. Height should be limited to two and one-half (2 1/2) stories and not to exceed thirty-five (35') feet above grade, provided however, that if the proposed building or structure will materially impact the views of the Wallowa Mountains from existing residences in the area, or of a future residence which might be sited on a vacant lot which is suitable for residential use, then the site shall receive view corridor review pursuant to Section 10.350.

10. SITE PLAN REVIEW. The City may require that private greenhouses, duplexes, multi-family dwellings, churches, and all conditional uses allowed in the R-3 zone except accessory structures and farm use structures receive site plan review pursuant to ARTICLE 10, CHAPTER III of this ordinance prior to issuance of a permit, provided, however, that new uses or expansions of existing uses established in, or incident to an existing structure, and involving no new structures and no change in vehicle and pedestrian access, shall not require site plan review.

11. All dwellings units shall be installed in accordance with the following standards:

A. Permanent steps of either concrete, masonry or wood construction. Wood steps shall be set on buried concrete footings, and shall include at least a four (4') foot by six (6') foot landing in front of the door; the perimeter of the steps shall be enclosed and risers installed between steps; and

B. Except in mobile home parks, the owner of the dwelling shall be the owner of the real property upon which the dwelling is situate.

#### Section 3.040. CENTRAL BUSINESS DISTRICT, CBD.

1. USES PERMITTED OUTRIGHT. In a CBD zone, the following uses and their accessory uses shall be permitted out-right:

A. Mini-storage buildings.

B. Hotels, motels.

C. Retail or wholesale establishments.

D. Eating or drinking establishments.

E. Financial institutions.

F. Repair and maintenance services.

G. Business offices.

H. Personal or business service establishments.

I. Amusement establishments.

J Nurseries or greenhouses.

K. Light industry such as, but not limited to, manufacture or assembly of clothing, sporting goods, ceramic products, electronic equipment, or small household items, provided such industry does not emit offensive odors, dust, smoke, gas, noise or other similar properties.

L. Parking lots.

M. Fraternal organizations and clubs.

N. Apartments, but only in the second or higher stories of a structure, where the first story is devoted to another use permitted in this zone.

O. A residential home, residential facility, or residential institution, if located in the second or higher stories of a structure, where the first story is devoted to another use permitted in this zone, provided it otherwise meets all other requirements of Oregon State law.

P. Government uses of a nature similar to the private uses permitted outright in this zone.

Q. Public and private parks, ball fields and playing fields.

R. Storage buildings and warehouses.

S. Streets and alleys and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television distribution facilities.

2. **CONDITIONAL USES PERMITTED.** In a CBD zone the following uses or accessory uses may be permitted and authorized in accordance with ARTICLE 6 and the criteria contained herein:

A. Churches.

B. Schools.

C. Off premise signs.

D. Residential uses complying with the criteria in subparagraph 3A of this section.

E. Government use not permitted outright.

F. Blacksmith and machine shops.

G. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities, or natural gas main transmission lines.

3. **CONDITIONAL USE CRITERIA.**

A. A conditional use providing for an apartment, residence or other type of dwelling unit, other than a single-family dwelling in the first floor or basement may be permitted upon a finding by the Commission that:

1) The first floor of the building in which the apartment or other dwelling unit is situate is permanently devoted to another use permitted outright or conditionally in the CBD zone; and

2) The area of the building in which said apartment, or other dwelling unit, is to be situate, owing to street access points or other factors, is not desirable for commercial use and need not be retained for commercial use to implement the Land Use Plan.

B. Churches and schools may be permitted upon the finding that:

1) There are no commercial uses in the vicinity which, due to noise, odor, traffic or other factors, would cause material conflict with the proposed conditional use;

2) The streets serving the conditional use are adequate to serve anticipated traffic and parking needs; and

3) The proposed conditional use will not be located on a parcel which should be retained for commercial use to implement the Land Use Plan, considering the existing areas utilized for commercial purposes and the availability of unimproved commercially zoned land.

C. Off premise signs may be permitted upon a finding that:

1) The sign will not diminish the visibility or noticeability of existing and lawful on premise or off premise signs in the vicinity;

2) The sign will not detract from or reduce the aesthetic appearance of the area;

3) There are no residences in the vicinity which will be adversely affected by the off premise sign; and

4) The sign will not cause a hazard to traffic on streets from which the sign will be visible.

4. **SITE PLAN REVIEW.** All uses permitted outright or conditionally in the CBD zone, except off premise signs shall receive site plan review pursuant to ARTICLE 10, CHAPTER III of this ordinance prior to issuance of a permit, provided however, that new uses or expansion of existing uses, established in or incident to an existing structure, and involving no new structures and no change in vehicle and pedestrian access, shall not require site plan review.

5. **LOT SIZE.** Minimum lot size shall be the minimum size necessary to accommodate the proposed structure and off street parking and any other requirements imposed pursuant to the provisions governing site plan review.

6. **LOT COVERAGE.** Buildings and structures may be permitted to cover one hundred (100%) percent of the lot or parcel.

7. **OFF STREET PARKING.** Off street parking shall be provided for apartments, hotels and motels pursuant to Section 4.080 of this ordinance. No off street parking shall be required for other uses permitted outright in this zone.

Section 3.050. COMMERCIAL ZONE REGULATIONS, C-1.

1. USES PERMITTED OUTRIGHT. In a C-1 zone, the following uses and their accessory uses shall be permitted out-right:

- A. Mini-storage buildings.
- B. Hotels, motels.
- C. Retail or wholesale establishments.
- D. Eating or drinking establishments.
- E. Financial institutions.
- F. Repair and maintenance services.
- G. Business offices.
- H. Personal or business service establishments.
- I. Amusement establishments.
- J. Personal or business service establishments.
- K. Nurseries or greenhouses.
- L. Public and private parks, ball fields, and playing fields.
- M. Light industry such as, but not limited to, manufacture or assembly of clothing, sporting goods, household items, provided such industry does not emit offensive odors, dust, smoke, gas, noise or other similar properties.
- N. Parking lots.
- O. Fraternal organizations and clubs.
- P. Churches.
- Q. Farm uses, when in compliance with all applicable ordinances of the city.
- R. Nursing homes.
- S. Hospitals.
- T. Residential institutions.
- U. Single-wide and double-wide mobile homes, and manufactured homes, within a mobile home park.
- V. Storage buildings and warehouses.
- W. Blacksmith and machine shops.
- X. Streets and alleys and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television facilities.
- Y. Government uses similar in nature to the uses permitted outright in this zone.

2. CONDITIONAL USES PERMITTED. In a C-1 zone the following uses or accessory uses may be permitted and authorized in accordance with ARTICLE 6 and the criteria contained herein:

- A. Mobile home parks.
- B. Single-family dwellings and manufactured or mobile homes, meeting the standards set forth in Section 3.020, subparagraphs 1A and 12.
- C. Mobile homes, single-wide, double-wide, and triple-wide.
- D. Duplexes.
- E. Multi-family dwellings.
- F. Schools.
- G. Circuses, fairs, and carnivals.
- H. Farm use structures
- I. Government uses.
- J. Residential homes.
- K. Residential facilities.
- L. Golf courses.
- M. Government uses not permitted outright.
- N. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities, or natural gas main transmission lines.
- O. Hangars.
- P. Off premise signs.
- Q. Any other business or enterprises which, when so determined by the Commission in the manner provided in ARTICLE 6, are declared to be no more obnoxious or detrimental to the public welfare than the businesses or enterprises in this section.

3. CONDITIONAL USE CRITERIA.

- A. A conditional use providing for a single-family residence or other type of dwelling unit may be permitted upon a finding by the Commission that:

- 1) There will be no material conflict between existing or reasonably likely future commercial uses in the vicinity of the proposed dwellings, considering the nature of the uses in the vicinity, the size of the conditional use site, nature of the proposed conditional use, and the siting of dwellings on the conditional use site;
- 2) The proposed conditional use will not be located on a parcel which needs to be retained for commercial use to implement the Land Use Plan considering the existing area utilized for commercial purposes and the availability of unimproved commercially zoned land;
- 3) With respect to mobile and manufactured homes, the requirements of Section 3.020, subparagraphs 1A and 12 are met; and
- 4) With respect to mobile home parks the requirements of Section 6.030 of this ordinance are met.

B. Schools may be permitted upon the finding that:

- 1) There are no commercial uses in the vicinity which, due to noise, odor, traffic or other factors, would cause material conflict with the proposed conditional uses;
- 2) The streets serving the conditional use are adequate to serve anticipated traffic and parking needs; and
- 3) The proposed conditional use will not be located on a parcel which needs to be retained for commercial use to implement the Land Use Plan considering the existing areas utilized for commercial purposes and the availability of unimproved commercially zoned land.

C. Off Premise signs may be permitted upon a finding that:

- 1) The sign will not diminish the visibility or noticeability of existing and lawful on premise or off premise signs in the vicinity;
- 2) The sign will not detract from or reduce the aesthetic appearance of the area;
- 3) There are no residences in the vicinity which will be adversely affected by the off premise sign;
- 4) The sign will not cause a hazard to traffic on streets from which the sign will be visible.

D. All other conditional uses in the C-1 zone may be permitted upon a finding by the Commission that:

- 1) The proposed conditional use will cause no material and negative impact upon existing commercial uses, or reasonably likely future commercial use, in the vicinity of the proposed conditional uses;
  - 2) The existing commercial uses, or reasonably likely future commercial uses, in the vicinity of the proposed conditional use will cause no material and negative impact upon the proposed conditional use; and
  - 3) The proposed conditional use will not be located on a parcel which needs to be retained for commercial use to implement the Land Use Plan, considering the existing are utilized for commercial purposes and the availability of unimproved commercially zoned land.
4. ACCESSORY USE. Uses accessory to residential uses shall be subject to the provisions and standards for such uses as provided for the R-2 zone, Section 3.020, subparagraph 4.

#### 5. LOT SIZE.

A. Lot size for all conditional uses providing for a single-family, mobile home or duplex shall be as provided in Section 3.020 for the R-2 zone.

B. Minimum lot size for all uses other than mobile homes, single-family residences and duplexes shall be the minimum size necessary to accommodate the proposed structure, off street parking and yard requirements.

#### 6. SETBACKS AND REQUIRED YARD AREA.

A. The dwelling or other primary use structure and all structures accessory thereto, attached to said dwelling or other primary use structures, shall be set back, 1) twenty (20') feet from the front yard line or lines, 2) five (5') feet from each side yard line or lines, and 3) twenty (20') feet from the rear yard line, provided, however, that for a commercial use located on a lot which abuts upon State Highway 82 or State Highway 3, no yards shall be required within one hundred twenty (120') feet of the property line adjacent to the highway.

B. The setbacks required in subparagraph A of this section, create the required front yards, side yards and rear yards, as defined in Section 1.030, and in the case of corner lots the required front yards and side yards.

C. Detached accessory buildings or structures shall be set back from lot lines as specified in subparagraph A of this section, except that the setback from the rear yard line may be reduced to five (5') feet if there will remain one (1) thousand two hundred (1,200') square feet of rear yard area not covered by buildings or structures.

D. In the case of irregularly shaped lots, or other circumstances where the required setbacks and yard areas, and the definitions related thereto, are difficult to apply, the Commission may establish minimum yard areas and setbacks consistent with the policy of this ordinance, to-wit; maintenance of uniform minimum setbacks from public streets and lot lines and maintenance of minimum open spaces.

7. WAIVER OF YARD REQUIREMENTS. The Commission may waive yard requirements as specified in this section in whole or part upon the finding that:

A. There will be no material and detrimental impact upon residences adjacent to said use.

B. It is in the public interest for the parcel to be developed to a higher density than permitted if the yard requirements are complied with; and

C. Adequate provisions will be made for pedestrian traffic and off street parking.

The Commission shall not waive any yard requirements if the yard abuts and terminates on property zoned residential.

8. BUILDING HEIGHT. Height shall be limited to two and one-half (2 1/2) stories and not to exceed thirty-five (35') feet above grade.

9. OFF STREET PARKING. Off street parking shall be provided in Section 4.080 of this ordinance.

10. SCREENING FOR RESIDENTIAL ZONES. Any new use or structure permitted outright shall, if the same is located adjacent to a residential use located in a residential zone, be screened therefrom, if feasible, by fencing or shrubbery, and said screening may be required as a condition of any permit required under this ordinance.

11. SITE PLAN REVIEW. All uses permitted outright or conditionally in the C-1 zone, except off premise signs, single-family dwellings, mobile homes and farm use structures, shall receive site plan review pursuant to ARTICLE 10, CHAPTER III of this ordinance prior to issuance of a permit, provided however, that new uses or expansions of existing uses, established in or incident to an existing structure, and involving no new structures and no change in vehicle and pedestrian access, shall not require site plan review.

#### Section 3.060. COMMERCIAL ZONE REGULATIONS, C-2.

1. USES PERMITTED OUTRIGHT. In a C-2 zone, the following uses and their accessory uses shall be permitted outright:

A. Mini-storage buildings.

B. Hotels, motels.

C. Retail or wholesale establishments.

D. Eating or drinking establishments.

E. Financial institutions.

F. Repair and maintenance services.

G. Business offices.

H. Personal or business service establishments.

I. Amusement establishments.

J. Nurseries or greenhouses.

K. Light industry such as, but not limited to, manufacture or assembly of clothing, sporting goods, ceramic products, electronic equipment, or small household items, provided such industry does not emit offensive odors, dust, smoke, gas, noise or other similar properties.

L. Parking lots.

M. Fraternal organizations and clubs.

N. Storage buildings and warehouses.

O. Blacksmith and machine shops.

P. Mobile home parks, subject to compliance with the provisions of Section 6.030, provided that there are no adjacent commercial or industrial uses which would cause a risk to the health of residents of said mobile home park.

Q. Publicly-owned facilities and services including, without limitation:

1) Municipal sewage treatment plants;

2) Municipal shops; and

3) Asphalt plants.

R. Any kind of manufacturing, processing, or treatment of products other than those which may be offensive by reason of excessive emission of odor, dust, smoke, gas, noise or other similar causes.

S. Public and private parks, ball fields, and playing fields.

T. Farm uses, when in compliance with all applicable ordinances of the city.

U. Nursing homes.

V. Hospitals.

W. Residential institutions.

X. Golf courses.

Y. Hangars.

Z. Single-wide and double-wide mobile homes, and manufactured homes, within a mobile home park.

AA. Streets and alleys and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television distribution facilities.

2. CONDITIONAL USES PERMITTED. In a C-2 zone the following uses or accessory uses may be permitted and authorized in accordance with ARTICLE 6 and the criteria contained herein:

A. Mobile home parks.

B. Single-family dwellings and multi-sectioned manufactured or mobile homes meeting the standards set forth in Section 3.020, subparagraphs 1A and 12.

C. Mobile homes, single-wide, double-wide, and triple-wide.

D. Duplexes.

E. Multi-family dwellings.

F. Schools.

G. Off premise signs.

H. Farm use structures.

I. Residential homes.

J. Residential facilities.

K. Hangars.

L. Golf courses.

M. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities, or natural gas main transmission lines.

N. Any other business or enterprises which, when so determined by the Commission in the manner provided in ARTICLE 6, are declared to be no more obnoxious or detrimental to the public welfare than the businesses or enterprises in this section.

### 3. CONDITIONAL USE CRITERIA.

A. A conditional use providing for a single-family residence or other type of dwelling unit may be permitted upon a finding by the Commission that:

- 1) There will be no material conflict between existing or reasonable likely future commercial uses in the vicinity of the proposed dwellings, considering the nature of the uses in the vicinity, the size of the conditional use site, nature of the proposed conditional use, and the siting of dwellings on the conditional use site;
- 2) The proposed conditional use will not be located on a parcel which needs to be retained for commercial use to implement the Land Use Plan, considering the existing area utilized for commercial purposes and the availability of unimproved commercially zoned land;
- 3) With respect to mobile and manufactured homes, the requirements of Section 3.020, subparagraphs 1A and 12 are met; and
- 4) With respect to mobile home parks the requirements of Section 6.030 of this ordinance are met.

B. Schools may be permitted upon the finding that:

- 1) There are no commercial uses in the vicinity which, due to noise, odor, traffic or other factors, would cause material conflict with the proposed conditional uses;
- 2) The streets serving the conditional use are adequate to serve anticipated traffic and parking needs; and
- 3) The proposed conditional use will not be located on a parcel which needs to be retained for commercial use to implement the Land Use Plan considering the existing areas utilized for commercial purposes and the availability of unimproved commercially zoned land.

C. Off premise signs may be permitted upon a finding that:

- 1) The sign will not diminish the visibility or noticeability of existing and lawful on premises or off premise signs in the vicinity;
- 2) The sign will not detract from or reduce the aesthetic appearance of the area;
- 3) There are no residences in the vicinity which will be adversely affected by the off premise sign; and
- 4) The sign will not cause a hazard to traffic on streets from which the sign will be visible.

D. All other conditional uses in the C-2 zone may be permitted upon a finding by the Commission that:

- 1) The proposed conditional use will cause no material and negative impact upon existing commercial uses or reasonably likely future commercial uses, in the vicinity of the proposed conditional use;
- 2) The existing commercial uses, or reasonably likely future commercial uses, in the vicinity of the proposed conditional use will cause no material and negative impact upon the proposed conditional use; and
- 3) The proposed conditional use will not be located on a parcel which needs to be retained for commercial use to implement the Land Use Plan, considering the existing area utilized for commercial purposes and the availability of unimproved commercially zoned land.

4. ACCESSORY USE. Uses accessory to residential uses shall be subject to the provisions and standards for such uses as provided for the R-2 zone, Section 3.020, subparagraph 4.

### 5. LOT SIZE.

A. Lot size for all conditional uses providing for a single-family, mobile home or duplex shall be as provided in Section 3.020 subparagraph 5 for the R-2 zone.

B. Minimum lot size for all uses other than mobile homes, single-family residences and duplexes shall be the minimum size necessary to accommodate the proposed structure, off street parking and yard requirements.

### 6. SETBACKS AND REQUIRED YARD AREA.

A. The dwelling or other primary use structure and all structures accessory thereto, attached to said dwelling or other primary use structure, shall be set back, 1) twenty (20') feet from the front yard line or lines, 2) five (5') feet from each side yard line, and 3) twenty (20') feet from the rear yard line, provided, however, that for a commercial use located on a lot which abuts upon State Highway 82 or State Highway 3, no yards shall be required within one hundred twenty (120') feet of the property line adjacent to the highway.

B. The setbacks required by subparagraph A of this section, create the required front yards, side yards and rear yards, as defined in Section 1.030, and in the case of corner lots, the required front yard and side yards.

C. Detached accessory buildings or structures shall be set back from lot lines as specified in subparagraph A of this section, except that the setback from the rear yard line may be reduced to five (5') feet if there will remain one thousand two hundred (1,200') square feet of rear yard area not covered by buildings or structures.

D. In the case of irregularly shaped lots or other circumstances where the required setbacks and yard areas, and the definitions related thereto, are difficult to apply, the Commission may establish minimum yard areas and setbacks consistent with the policy of this



ordinance, to-wit; maintenance of uniform minimum setbacks from public streets and lot lines and maintenance of minimum open spaces.

7. **WAIVER OF YARD REQUIREMENTS.** The Commission may waive yard requirements as specified in this section in whole or part upon the finding that:

- A. There will be no material and detrimental impact upon residences adjacent to said use;
- B. It is in the public interest for the parcel to be developed to a higher density than permitted if the yard requirements are complied with; and
- C. Adequate provisions will be made for pedestrian traffic and off street parking.

The Commission shall not waive any yard requirements if the yard abuts and terminates on property zoned residential.

8. **BUILDING HEIGHT.** Height shall be limited to two and one-half (2 1/2) stories and not to exceed thirty-five (35') feet above grade.

9. **OFF STREET PARKING.** Off street parking shall be provided in Section 4.080 of this ordinance.

10. **SCREENING FOR RESIDENTIAL ZONES.** Any new use or structure permitted outright shall, if the same is located adjacent to a residential use located in a residential zone, be screened therefrom, if feasible, by fencing or shrubbery, and said screening may be required as a condition of any permit required under this ordinance.

11. **SITE PLAN REVIEW.** All uses permitted outright or conditionally in the C-2 zone, except off premise signs, single-family dwellings, mobile homes and farm use structures shall receive site plan review pursuant to ARTICLE 10, CHAPTER III of this ordinance prior to issuance of a permit, provided however, that new uses or expansion of existing uses, established in or incident to an existing structure, and involving no new structures and no change in vehicle and pedestrian access, shall not require site plan review.

#### Section 3.070. AIRPORT ZONE, A-1.

1. **CLEAR ZONE.** No buildings or structures, except fences, shall be permitted in the airport clear zone as indicated in the zoning map.

2. **USES PERMITTED OUTRIGHT.** In the A-1 zone, the following uses and their accessory uses shall be permitted outright:

- A. Airports.
- B. Farm uses and farm use structures.
- C. Streets and alleys and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television distribution facilities.
- D. Public and private parks, ball fields and playing fields.

3. **CONDITIONAL USES PERMITTED.** In an A-1 zone the following uses and their accessory uses may be permitted and authorized in accordance with the criteria contained herein and in accordance with ARTICLE 6:

- A. Single-family dwellings and multi-sectioned manufactured or mobile homes meeting the standards set forth in Section 3.020, subparagraphs 1A and 12.
- B. Hangars.
- C. Airport commercial facilities.
- D. Government uses not permitted outright in this zone, including water storage reservoir and well facilities.
- E. Cemeteries.
- F. Golf courses.
- G. Residential homes,

H. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities, or natural gas main transmission lines.

4. **CONDITIONAL USE CRITERIA.** Conditional uses may be permitted by the Commission upon a finding that:

- A. The proposed use or structure would not constitute a hazard to airport traffic;
- B. The proposed use would not create or increase potential of airplanes striking birds;
- C. The proposed use or structure would not impair the visibility of aircraft utilizing the airport;
- D. The proposed use or structure would not create the potential for glare in eyes of pilots utilizing the airport;
- E. The proposed use or structure would not create a potential for electrical interference of navigation signals or radio communication between aircraft and the airport;
- F. Lights in connection with the proposed use or structure would not create difficulty for pilots utilizing the airport in distinguishing airport lights from other sources;
- G. The proposed use or structure does not have the potential to attract a large concentration of people and;
- H. The proposed use or structure would be consistent with and not in violation of applicable Federal Aviation Agency regulations.

5. **LOT SIZE.**

A. Single-family dwellings within the A-1 zone shall conform in all respects to the lot size, lot width, height and yard requirements, and other provisions relating to single-family dwellings and accessory uses in the R-1 zone.

B. All other uses permitted in the A-1 zone shall conform with the lot size, yard and height requirements of the C-1 zone.

6. **HEIGHT AND OTHER LIMITATIONS.**

- A. Before any new structure or use can be established or before an existing use or structure may be substantially changed, substantially altered or repaired, a zoning permit must be obtained to determine whether the use or structure would constitute an airport hazard. No permit shall be granted creating an airport hazard nor shall a permit issue for a use or structure which would be in violation of Federal Aviation agency regulations. Before issuing a permit, the city may limit the height of the structure, use, or tree, or may otherwise limit or condition the proposed use or structure to reasonably assure that the provisions of this ordinance and ORS 492.530 are fulfilled.
- B. If a proposed building or structure will materially impact the views of the Wallowa Mountains from existing residences in the area, or of a future residence which might be sited on a vacant lot which is suitable for residential use, then the site shall receive view corridor review pursuant to Section 10.350.
7. **SETBACK.** Uses allowed in subparagraphs 2 and 3 of this section shall have a minimum setback of one hundred fifty (150') feet from the runway center line.
8. **CLEAR ZONE.** There is hereby adopted that map, on file with the City Recorder entitled 'Map Designating Airport Clear Zone' and the area indicated as a clear zone and said map be, and the same hereby is, designated as the airport clear zone. No structures shall be permitted within the boundaries of the airport clear zone.
9. **AIRPORT OVERLAY MAP.** No building shall be permitted which protrudes into the approach zone established by the Airport Overlay Map.

### Section 3.080. VIEW COMMERCIAL ZONE REGULATIONS, C-V.

1. **USES PERMITTED OUTRIGHT.** In a C-V zone the following uses and their accessory uses shall be permitted outright:
- A. Office buildings.
  - B. Hotels, motels, and convention centers.
  - C. Eating or drinking establishments which would benefit from a view location but excluding therefrom drive-in restaurants or other fast food franchises.
  - D. Farm uses.
  - E. Streets, alleys and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television distribution facilities.
  - F. Public and private parks, ball fields and playing fields.
2. **CONDITIONAL USES PERMITTED.** In a C-V zone the following uses or accessory uses may be permitted and authorized in accordance with Article 6 and the criteria contained herein.
- A. Multi-family dwellings.
  - B. Residential facilities.
  - C. Residential institutions.
  - D. Any use which the Commission finds to be benefitted by a view location, which is open to the public and which would be compatible with the uses permitted outright in subparagraph 1 of this section.
  - E. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities, or natural gas main transmission lines.
  - F. Golf courses.
3. **CONDITIONAL USE CRITERIA:** Conditional uses in the C-V zone may be permitted upon a finding by the Commission that:
- A. The proposed conditional use will cause no material and no negative impact upon existing commercial uses, or reasonably likely future commercial uses, in the vicinity of the proposed conditional use;
  - B. The existing commercial uses, or reasonably likely future commercial uses, in the vicinity or the proposed conditional use will cause no material and negative impact upon the proposed conditional use;
  - C. The use will benefit from a view location, be compatible with the uses permitted outright by subparagraph 1 of this section, and be consistent with the purpose of the C-V zone;
  - D. In the case of a commercial use, it is of a type where the public is invited on premise and is afforded an opportunity to enjoy and see scenic views of the Wallowa Mountains;
  - E. The proposed conditional use will not be located on a parcel which needs to be retained for commercial use to implement the Land Use Plan considering the existing area utilized for commercial purposes and the availability of unimproved commercially zoned land.
4. **ACCESSORY USE.** Uses accessory to residential uses shall be subject to the provisions and standards for such uses as provided for in the R-3 zone, Section 3.030, subparagraph 4 of this section.
5. **LOT SIZE.**
- A. Lot size for a multi-family dwelling conditional use shall be six thousand six hundred (6,600') square feet, together with one thousand (1,000') square feet for each dwelling unit over two (2).
  - B. Minimum lot size for all uses other than multi-family dwelling shall be the minimum size necessary to accommodate the proposed structure, off street parking and yard requirements.
6. **SETBACKS AND REQUIRED YARD AREA.**

A. The dwelling or other primary use structures and all structures accessory thereto, attached to said dwelling or other primary use structure, shall be set back, 1) twenty (20') feet from the front yard line or lines, 2) five (5') feet from each side yard line, and 3) twenty (20') feet from the rear yard line.

B. The setbacks required by subparagraph A of this section create the required front yards and rear yards, as defined in Section 1.030, and in the case of corner lots, the required front yards and side yards.

C. Detached accessory buildings or structures shall be set back from lot lines as specified in subparagraph A of this section, except that the setback from the rear yard may be reduced to five (5') feet if there will remain one thousand two hundred (1,200') square feet of rear yard area not covered by buildings or structures.

D. In the case of irregularly shaped lots, or other circumstances where the required setbacks and yard areas, and the definitions related thereto, are difficult to apply, the Commission may establish minimum yard areas and setbacks consistent with the policy of this ordinance, to-wit; maintenance of uniform minimum setbacks from public streets and lot lines and maintenance of minimum open spaces.

7. **WAIVER OF YARD REQUIREMENTS.** The Commission may waive yard requirements as specified in this section in whole or part upon the finding that:

A. There will be no material and detrimental impact upon residents adjacent to said use;

B. It is in the public interest for the parcel to be developed to a higher density than permitted if the yard requirements are complied with; and

C. Adequate provisions will be made for pedestrian traffic and off street parking.

The Commission shall not waive any yard requirements if the yard abuts and terminates on a property that is zoned residential.

8. **BUILDING HEIGHT.** Heights shall not exceed two and one-half (2 1/2) stories or thirty-five (35') feet above grade without special approval of the Commission, pursuant to the site plan review, to a level of less than two and one-half (2 1/2) stories or thirty-five (35') feet above grade.

9. **OFF STREET PARKING.** Off street parking shall be provided for in Section 4.080 of this ordinance.

10. **SCREENING FOR RESIDENTIAL ZONES.** Any new zone use or structure permitted outright shall, if the same is located adjacent to a residential use located in a residential zone, be screened therefrom, if feasible, by fencing or shrubbery, and said screening may be required as a condition of any permit required under this section

11. **SITE PLAN AND DESIGN REVIEW.**

A. No permit shall be issued for any use permitted outright or conditionally in the city CV zone until such time as the Commission has conducted a site plan review, pursuant to Article 10 CHAPTER III and completed design review pursuant to this subsection.

B. The applicant shall submit building plans sufficiently specific as such that the location, dimension, including height, architectural style and specific floor plan is provided for all buildings to be constructed, together with a specific design information with respect to all associated information with respect to all associated facilities. Such plans shall also include specifics as to the following: 1) the location and dimensions of all internal roadways intended for vehicular access, 2) the location and layout, including specific dimensions of all proposed external vehicular parking areas, 3) a proposed external lighting plan, 4) the location and dimensions of all pedestrian sidewalks and walkways, 5) the location and nature of any proposed landscaping plan, 6) a grading plan for all excavations and fills proposed in conjunction with the project, 7) information concerning the location and specifications for all utility facilities to be provided, and 8) any plans or provisions for storm drainage systems.

C. All development plans for the view commercial zone shall include provisions for paved or concrete parking lots, access roads and pedestrian walkways or sidewalks, together with provisions for underground utility facilities including electric, power, telephone and television cable facilities. The Commission may impose such conditions as to improvement specifications, as for example parking bunkers or guardrails, as it deems necessary and appropriate.

D. The Commission shall review the plans submitted to assure that, 1) the proposed uses take maximum advantage to assure view amenities provided by the site, 2) that the esthetics of the development are consistent with the overall high quality development of the area, 3) that negative impacts upon adjacent properties, including impacts upon views, are minimized, and 4) that the overall development plan, including internal access road location and utility plans, are consistent with optimum future development of the area for the purposes contemplated by the Land Use Plan for the area. As part of said review, the Commission shall review building height and location to assure that a development has a minimum impact upon the view of the Wallowa Mountains from both residential and commercial properties in the vicinity.

E. The Commission may deny an application if the criteria set forth in subparagraph 11D of this section, above are not met. The Commission may order alteration in the proposed plans, or may impose conditions, including alterations of any nature in the proposed plans or designation of buffer areas or screening, in order to minimize the impact upon adjacent properties, accomplish the objectives of this ordinance, or secure compliance with the criteria set forth in subparagraph D above.

F. Site plan and design review shall not be conducted, based upon general conceptual site plans. Review shall be conducted after the applicant has prepared detailed development plans sufficient in design detail to allow review under the criteria contained in this section. After approval of site plans, no material changes in development plans, so approved shall be made without the concurrence of the Commission.

G. The Commission shall hold a public hearing after such notice as is required by this ordinance, prior to making a decision as to a combined site plan and design review under this subparagraph.

Section 3.090. HOSPITAL ZONE, H-1.

1. USES PERMITTED OUTRIGHT. In an H-1 zone, the following uses and their accessory uses shall be permitted out-right:

- A. Hospitals.
- B. Nursing homes.
- C. Residential institutions and residential facilities.
- D. Public and private parks, ball fields and playing fields.
- E. Streets, alleys and utility facilities necessary to provide utility distribution to the vicinity including, without limiting the foregoing, water, sewer, natural gas, electrical, telephone and cable television distribution facilities.

2. CONDITIONAL USES PERMITTED. In an H-1 zone the following uses or accessory uses may be permitted and authorized in accordance with ARTICLE 6 and the criteria contained herein:

- A. Apartments or other residential facilities for the use of medical staff in a hospital or medical care facilities.
- B. Churches.
- C. Utility facilities not permitted as an outright use, including, without limiting the foregoing, electrical transmission lines, substations, central telephone switching facilities, central cable television receiving and transmitting facilities, city water wells or water storage facilities, sewage treatment facilities, principal use irrigation, water pipelines or facilities or natural gas main transmission lines.

3. SITE PLAN REVIEW. All uses permitted outright or conditionally in the H-1 zone, signs shall receive site plan review pursuant to ARTICLE 10, CHAPTER III of this ordinance prior to issuance of a permit, provided, however, that new uses or expansions of existing uses established in or incident to an existing structure, and involving no new structures and no change in vehicle and pedestrian access, shall not require site plan review.

4. LOT SIZE. Minimum lot size shall be the minimum size necessary to accommodate the proposed structure and off street parking, and any other requirements imposed pursuant to the provisions governing site plan review.

5. LOT COVERAGE. Buildings and structures may be permitted to cover one hundred (100%) percent of the lot or parcel.

6. OFF STREET PARKING. Off street parking should be provided in accordance with Section 4.080, unless the requirements are waived by the Commission.

7. REVERSION TO R-2 ZONING. In the event uses for the purposes authorized in this zone, in the area designated as H-1 on the zone map, cease for a period of one (1) year, then thereafter the area shall be zoned and designated as R-2 and uses authorized and development standards shall be governed by the provisions of Section 3.020.

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# City Municipal Code Results

## ARTICLE 4

### SUPPLEMENTARY PROVISIONS

#### Section 4.010. COMBINED RESIDENTIAL AND COMMERCIAL USES.

Except for residential uses within the confines of a commercial building, all residential uses within the C-1 and C-2 zones shall comply with the lot size, setback and other density provisions of the R-2 zone. In said zones, commercial structures and buildings otherwise permitted in said zone, are permitted on the same lot as a detached dwelling only in compliance with the setback and other density restrictions applicable to commercial uses in said zone.

#### Section 4.020. HOME OCCUPATIONS IN COMMERCIAL ZONES.

A home occupation or commercial use may be established in a single-family dwelling, situate within the CBD, C-1 or C-2 zones, where the residential use is to continue, without compliance with standards for home occupations, in the R-1, R-2, or R-3 zones.

#### Section 4.030. GENERAL PROVISIONS REGARDING ACCESSORY USES.

An accessory use shall comply with the requirements for a principal use except as this ordinance specifically allows to the contrary.

#### Section 4.040. MINIMUM PROPERTY STANDARDS.

Property within all zones must be maintained in such a manner as to not be unsightly, not be a fire hazard, or tend not to decrease the value of adjoining property, and shall comply with such other provisions as expressed in other city ordinances.

#### Section 4.050. SIGNS.

1. An on premise sign is permitted only as an accessory use of the property on which the sign is located. Off premise signs are a principal use and are authorized only when permitted pursuant to the zone regulations of ARTICLE 3.
2. In no instance shall a sign be allowed which would, as a result of flashing, illumination or movement, create a public nuisance when visible from a street or adjacent property. No off premise sign shall exceed one hundred (100') square feet in area. No sign shall be sited in such a fashion as to obstruct views of pedestrian or motor vehicle traffic.
3. The following restrictions are applicable to on premise signs:
  - A. On premise signs advertising or pertaining to, a business use on premise, when situate within the CBD, C-1 or C-2 zones are permitted, but shall not exceed one hundred (100') feet in area and shall be placed so as to conform to the State of Oregon building code.
  - B. One name plate or sign, not exceeding six (6) square feet in area is permitted on property used as a residence; this limitation shall apply to signs advertising an authorized home occupation in the R-1, R-2 or R-3 zones.
4. New on premise signs advertising or pertaining to a business use shall be reviewed pursuant to the provisions of ARTICLE 5 relating to expansion or alteration of nonconforming structures.
5. The following additional temporary signs are permitted:
  - A. A temporary real estate sales sign not exceeding six (6') square feet in area.
  - B. One temporary sign per tract or subdivision advertising the sale of the tract or lots and not exceeding thirty-two (32') square feet in area.
  - C. A temporary political sign, not exceeding six (6') square feet in area, purporting to advertise a candidate or issue for a period not to exceed sixty (60) days prior to the date of an election. Said sign must be removed not later than ten (10) days after the date of the election. Persons that fail to comply are subject to the penalties as provided in Section 12.020 of this ordinance.
6. Public information signs not advertising a particular business or service may be authorized as a conditional use in all zones.

#### Section 4.060. FENCES.

Fences shall comply with the following:

1. Maximum height is six (6) feet above the ground in side and rear yard areas.
2. In front yard areas the maximum fence height is four and one-half (4 1/2') feet above ground level, i.e. a fence located within twenty (20') feet of the street right of way shall not be higher than four and one-half (4 1/2') above ground level. In the case of a corner lot this restriction applies to both yard areas adjacent to both streets regardless of which street the front door of an existing building faces. Where a fence is to be placed in the side yard line from the rear of the property to the front street right of way line, the maximum height of said fence is four and one-half (4 1/2') feet, within twenty (20') of the street right of way line and six (6') feet for the balance of said fence line.
3. No fence may materially obstruct visibility at street intersections. In addition to the foregoing height restrictions, further limitations as to height, location or design may be imposed or necessary to avoid restriction of traffic visibility at intersections.

#### Section 4.070. FIRE ZONES.

The construction of any use pursuant to ARTICLE 3 of this ordinance shall conform to all applicable state and local fire regulations and fire zones.

#### Section 4.080. OFF STREET PARKING.

1. Unless a lesser number of spaces is established pursuant to the provisions of subparagraph 2 of this section, newly erected structures shall provide off street parking as follows:
  - A. Hotels, motels, One (1) space per guest room;
  - B. Retail or wholesale establishments, financial institutions, and office use; One (1) space per four hundred (400') square feet of floor area;
  - C. Places of assembly including fraternal organizations and churches; One (1) space per thirty-five (35') square feet of floor area;
  - D. Industrial uses, One (1) space per employee;
  - E. Institutional uses, including hospitals, for patients or residents in nursing homes and rest homes; One (1) space per two (2) beds for patients or residents;
  - F. Eating or drinking establishments; One (1) space per four (4) seats;
  - G. Apartments, One and one-half (1 1/2) spaces per unit;
  - H. Other commercial uses not listed above; As established by the Commission pursuant to the criteria in subparagraph 2 of this section.
2. When square feet are specified, the area measured shall be the gross floor area of the building but shall exclude any space within a building devoted to off street parking or loading. When a number of employees is specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as whole space.
3. The Commission may establish a lesser number of required off street parking spaces if it is determined that a lesser number of spaces, when added to available on street parking spaces, of a type in the public interest, to meet the demand created by the proposed use. The Commission, in making such determination, may consider:
  - A. The likely demand for parking spaces to be created by the use and expectable hours of such demands;
  - B. The present and expectable future availability of on street parking spaces in the immediate area;
  - C. Impact, if any, upon adjacent uses and traffic flow which might be caused by reliance upon on street parking; and
  - D. Any other relevant factors.
4. If parking space has been provided to an existing use, or is added to an existing use parking spaces shall not be eliminated if a lesser number of parking spaces than required by this ordinance would result.
5. In the event no standards for off street parking are provided in subparagraph 1 of this section, for a new commercial use or structure, required off street parking spaces shall be established by the Commission, pursuant to the standards in subparagraph 1 above, prior to issuance of a zoning permit.

#### Section 4.090. HISTORICAL OR ARCHITECTURALLY SIGNIFICANT SITE.

1. SPECIAL USE PERMIT. The Commission may permit certain historical or architecturally significant buildings to be used for purposes not otherwise authorized in the zone in which they are located. Such conditional uses shall be granted to preserve historical or architecturally significant buildings where preservation is not possible or practicable under existing zoning. To be eligible, the building or structure must meet at least one (1) of the following criteria:
  - A. Be designated in the National Register of Historic Places as published by the U.S. Department of the Interior.
  - B. Be designated as such in the Land Use Plan.
  - C. Be certified as historically or architecturally significant by any other source which is specifically recognized by the Council.
2. DEMOLITION PERMIT. Prior to demolition or redevelopment of a structure designated as a historic site in the Land Use Plan, a demolition permit shall first be obtained from the Commission. Prior to obtaining such permit, a public hearing shall first be held and the Commission may withhold issuance for a period of time not to exceed ninety (90) days from the date of hearing to allow any interested person an opportunity to arrange for purchase and preservation of said historic site.

### 3. PUBLIC BUILDINGS.

A. Prior to the alteration, renovation or remodeling of the interior or exterior of any building, designated as historic site and owned by a state, federal, local government, municipal corporation or any instrumentality thereof, a permit shall be obtained from the Commission and a public hearing shall be held prior to issuance of said permit.

B. The Commission shall grant the permit specified in subparagraph A above, if the proposed alteration, remodeling or renovation is consistent with the architecture of said historic site to the maximum extent feasible after consideration of need for modernization of the building, alternative ways to achieve the same with less impact upon the architectural integrity of the building or site, and the relative costs thereof. The Commission may impose such conditions and restrictions as deemed necessary and appropriate to assure compliance with the standards contained herein.

#### Section 4.110. CONFORMANCE TO BUILDING CODE.

Any structure or part thereof constructed, reconstructed or structurally altered shall be subject to the State of Oregon building code, as adopted by the State of Oregon, or in effect for the City of Enterprise, Wallowa County, Oregon.

#### Section 4.120. GENERAL PROVISIONS REGARDING AIR, WATER AND NOISE POLLUTION.

1. Prior to issuance of any permit for any industrial or commercial use, proof shall be provided to the city that said use will comply with all state and federal statutes and regulations relating to:

A. Discharge of dust, smoke, gas or other similar matter into the air.

B. Discharge of effluents or other matters into the surface or ground waters.

C. Discharge or emission of odors or smells.

D. Emission of noise.

E. Storage of chemical waste products or other substances hazardous to the environment.

2. The City may impose conditions upon the issuance of any permit for a commercial or industrial use to eliminate or reduce impacts upon the environment from the causes specified in subparagraph 1 above and may deny a permit if there are significant and unavoidable impacts upon the environment from such causes.

3. The City may require submission of such evidence and information concerning the proposed use as is necessary to make determinations required under this section and the city may further hold such public hearings before the Commission and Council regarding such determinations as are deemed necessary and proper.

#### Section 4.130. HEIGHT RESTRICTIONS.

1. All structures shall be subject to the building height restrictions contained in ARTICLE 3 of this ordinance except as specified in subparagraph 2 below. In addition thereto, no structure shall protrude into the imaginary surfaces specified in the Airport Overlay Map.

2. Vertical projections such as chimneys, spire, domes, elevator shaft housings, towers, serials, flag poles, and similar objects not used for human occupancy, are not subject to the building height limitations of ARTICLE 3 of this ordinance, except as otherwise noted, provided, however, such objects and structures shall be subject to the additional height restrictions imposed by the Airport Overlay Map pursuant to subparagraph 1 above.

#### Section 4.140. SURVEYS.

Prior to the issuance of a zoning permit, conditional use permit or other permit required by this ordinance, a survey of one or more lot lines may be required, prior to issuance of said permit, if, in the judgment of the city officer or body responsible for issuance or denial of the permit, there is a material question as to whether the structure, at the location proposed in the application, will either, 1) be located entirely on the applicant's property, or 2) comply with the required setback standards.

#### Section 4.150. PROJECTIONS FROM BUILDINGS.

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project into a required yard.

#### Section 4.160. DRIVEWAYS.

On corner lots, no driveway or other vehicular access point to a public street shall be installed within twenty (20') feet of the corner of said lot at the intersection of the public street. For purposes of this provision an alley is not considered a public street.

#### Section 4.170. AUTHORIZATION OF SIMILAR USES.

The Commission may permit a use not listed in this ordinance for a particular zone, provided the use is of the same general type as the uses permitted in that zone by this ordinance. However, this section does not authorize the inclusion of a use in a particular zone if that use is restricted to another zone, or if said use is of the same general type as a use restricted to another zone.

#### Section 4.180. RIPARIAN CORRIDORS.

There is hereby established a riparian corridor adjacent to the portions of Prarie Creek, Trout Creek, and the Wallowa River within the

City of Enterprise Urban Growth Boundary. The riparian corridor shall extend twenty (20') feet on either side of the waterway beyond the ordinary high water mark. The following rules apply within the riparian corridor, in all zones:

1. No buildings or structures, except fencing and yard and landscaping improvements are permitted.
2. No decks, patios, driveways or parking areas or other impervious surfaces are permitted, excepting, however, that streets and alleys are permitted in the riparian corridor.
3. Either natural riparian vegetation or domestic plantings such as grasses, shrubs and trees, shall be maintained in the riparian corridor.

#### Section 4.190. RECREATIONAL VEHICLES.

The following rules apply to the storage, parking, installation and occupancy of recreational vehicles:

1. The installation of a recreational vehicle for use as a dwelling unit is not permitted except, a) within a mobile home park, and b) for the temporary period authorized by subparagraph 3 and 4 herein.
2. No more than two (2) recreational vehicles may be stored on a lot or parcel, without a permit from the City Recorder. Each such recreational vehicle must be operable (i.e., mobile and usable as a temporary dwelling unit) and licensed. The storage of unlicensed or inoperable recreational vehicles is not permitted. Storage of a recreational vehicle owned by a person other than the owner of the lot or parcel on which it is stored, is permitted for a maximum period of fourteen (14) days.
3. Except within a mobile home park and except as provided in subparagraph 4, the occupancy of a recreation vehicle for a period in excess of fourteen (14) days is not permitted. Without limiting the foregoing, the term 'occupancy' includes a) use of a recreational vehicle as a guest house for use of guests of the lot or parcel owner, b) use of a recreational vehicle as additional sleeping quarters for use by a member of the lot or parcel owner's family or guest thereof, and c) the occupancy by any person of a recreational vehicle owned by a guest and situate on a lot or parcel by permission of the lot or parcel owner.
4. The City Recorder or the Commission, in the event the City Recorder refers the matter to it, may issue a temporary permit or successive permits of a maximum duration of six (6) months, to allow occupancy of a recreational vehicle as a dwelling, during periods when construction or reconstruction of a permanent dwelling is occurring. It shall be a condition of such permit that, 1) construction be ongoing and that substantial progress thereon is occurring, and 2) that appropriate provisions for water and sewer disposal be made. Other conditions necessary to implement the provisions of this ordinance may be imposed upon such permit.
5. No sewage or gray water from a recreational vehicle shall be discharged except to an approved subsurface sewage system or to the city sewer system, pursuant to a connection thereto as approved by the City.
6. A new temporary fourteen (14) day period for occupancy, storage or installation of a recreational vehicle, will be allowed only after a two (2) week period of nonoccupancy or non-storage has intervened, after the cessation of the prior period of occupancy, installation or storage.
7. As used herein, 'lot owner' means the person entitled to possession of the lot or parcel in question and includes a tenant or lessee.

#### Section 4.200. METAL ROOFS.

Silver or metallic color metal roofing is not permitted. Metal roofs shall be colored with a non- reflective coating.

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## City Municipal Code Results

### ARTICLE 5

#### NONCONFORMING USES

##### Section 5.010. CONTINUATION OF NONCONFORMING USE OR STRUCTURE.

Subject to the provisions of this article, a nonconforming use or structure lawfully existing at the time of the enactment of this ordinance, or any amendment thereto, may be continued. A nonconforming use or structure may be resumed, reconstructed, or altered only in accordance with this article. Alterations of any such use or structure shall be permitted when necessary to comply with any lawful requirement for alteration.

##### Section 5.020. CHANGE IN OWNERSHIP OR OCCUPANCY.

A change of ownership or occupancy of a nonconforming use or structure shall not be permitted as long as the change does not alter the use or structure

##### Section 5.025. CONDITIONAL USES.

Where a use or a structure is currently authorized only as a conditional use and was legally established at a time when obtaining a conditional use permit was not a legal requirement, then any expansion or alteration thereof shall be reviewed under the standards for a conditional use permit for said use or structure; in the event the proposed expansion of the use or structure does not meet the criteria for a conditional use permit, or in the event the conditional use permit is denied, then said use or structure shall be considered non-conforming and the proposed expansion or alteration thereof shall be reviewed under the standards for expansion or alteration of a non-conforming use or structure contained in this Article.

##### Section 5.030. DISCONTINUANCE OF NONCONFORMING USE OR STRUCTURE.

If a nonconforming use is discontinued for a period of twelve (12) months, further use of the property or structure shall conform to this ordinance.

##### Section 5.040. CHANGE OF NONCONFORMING USE OR STRUCTURE.

If a nonconforming use or structure is replaced by another use or structure, the new use or structure shall conform to this ordinance

##### Section 5.050. DESTRUCTION OF NONCONFORMING USE OR STRUCTURE.

Restoration or replacement of any nonconforming use or structure may be permitted, pursuant to Section 5.070 of this article, when the restoration or replacement is made necessary by fire, other casualty, or natural disaster. Restoration or replacement shall be commenced within one (1) year from the occurrence of the fire, casualty or natural disaster. If such activity does not commence within one (1) year, any future use or structure shall conform to this ordinance.

##### Section 5.060. ALTERATION OF NONCONFORMING USE OR STRUCTURE.

Alteration of a nonconforming use or structure, as defined by Section 5.010 of this article, may be permitted in order to reasonably continue the use. Such alteration may be approved by the Commission and Council pursuant to Section 5.070 and upon a finding that:

1. The change in the use is of no greater adverse impact to the neighborhood; and
2. The change in the structure or physical improvements are of no greater adverse impact to the neighborhood.

##### Section 5.070. APPLICATION FOR RENOVATION, ALTERATION OR REPLACEMENT OF A NONCONFORMING USE OR STRUCTURE.

1. An application for renovation, replacement or alteration of a nonconforming use or structure shall be initiated by requesting and filing the appropriate permit application with the City Recorder. Such application shall be submitted to and heard by the Commission

through the public hearing process as prescribed by Sections 10.430 through 10.460 of this ordinance. All applications for such renovation, alterations or replacements shall be submitted to the City Recorder no less than fifteen (15) working days prior to the date of the proposed public hearing. The application shall contain, but is not limited to the following information:

- A. Name of applicant.
  - B. Legal description of the property in question.
  - C. A map sufficient to indicate location of property.
  - D. Intended or proposed plans for renovation, alteration or restoration of a nonconforming use or structure.
  - E. Authorizing signature for the application.
2. Other information including plans, sketches, or designs may be required if necessary to gain a complete understanding of the proposed activity. An application inaccurately or incorrectly submitted, or not containing sufficient information, may be grounds for summary dismissal by the Commission.
  3. The Commission and/or Council may impose such conditions on the renovation, replacement or alteration of a nonconforming use or structure and is appropriate under the circumstances.

#### Section 5.080. COMPLETION OF STRUCTURE.

Nothing contained in this resolution shall require any change in plans, construction, alterations or designated uses of a structure on which construction has lawfully commenced prior to the adoption of an amendment to this ordinance and/or map which would render the use or structure nonconforming, if said building or structure is completed and in use within two (2) years from the date of said amendment to text and/or map.

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# City Municipal Code Results

## ARTICLE 6

### CONDITIONAL USES

#### Section 6.010. AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this article and the specific criteria contained in ARTICLE 3. In judging whether or not a conditional use proposal shall be approved or denied, the Commission shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

4. The proposal will be consistent with the objectives of the Land use Plan and other applicable policies of the city.
  - 4A. Access review as specified in Section 10.415 shall be conducted and conditions may be imposed upon the conditional use permit as authorized by said section.
  5. Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impact on the: a) livability, b) value, and c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
  6. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.
  7. The proposal will preserve assets of particular interest to the community.
  8. The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purpose.
- (Amended by Ord 523 § 2 (part), 1999)

#### Section 6.020. PLACING CONDITIONS ON A PERMIT.

In permitting a new conditional use or the alteration of an existing conditional use, the Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the community as a whole. These conditions may include the following:

1. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
2. Establishing a special yard or other open space or lot area or dimension.
3. Limiting the height, size or location of a building or other structure.
4. Designating the size, number, location and nature of vehicle access points.
5. Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.
6. Designating the size, location, screening, drainage, surfacing or other improvements of a parking area or truck loading area.
7. Limiting or otherwise designating the number, size, location, height and lighting of signs.
8. Limiting the location and intensity of outdoor lighting and requiring its shielding.
9. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.
10. Designating the size, height, location and materials for a fence.
11. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
12. Other conditions to permit the development of the city in conformity with the intent and purpose of the conditional classification of uses.

#### Section 6.030. MOBILE HOME PARKS AND RECREATIONAL VEHICLE CONDITIONAL USE STANDARDS.

In addition to the standards of the zone in which the conditional use is located and the other standards of this ordinance, a mobile home

park and/or recreational vehicle park approved as a conditional use shall use the following procedures and meet the following standards:

1. All mobile home parks must be registered, operated and maintained as provided in ORS 446.002 to 446.200.
2. Application shall be made to the City Recorder for establishment of a mobile home park and/or recreational vehicle park and shall contain a plot and area plan, legal description of the property, number of units to be established, name of applicant and such other information as required by Oregon State law and considered necessary by the Commission.
3. No mobile home or manufactured home shall occupy more than seventy five (75%) percent of the lot area.
4. A mobile home or manufactured home shall not be located closer than fifteen (15') feet from any other mobile home or manufactured home or closer than ten (10') feet from a park boundary line.
5. All units within the mobile home park and/or recreational vehicle park shall be serviced with the city's sewage and water systems and other facilities in accordance with city and state laws.
6. PARK STREETS. All streets and drives that are to be named shall be done according to the pattern established in the city and shall be approved by the Commission. All other regulations pertaining to streets shall be as provided by Oregon State law.
7. Mobile home park and/or recreational vehicle park need not be fenced; however, the Commission may require screening by a sight-obscuring hedge or fence if considered so necessary.

#### Section 6.040. PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.

The procedure for taking action on a conditional use application shall be as follows:

1. The property owner may initiate a request for a conditional use by filing an application with the City Recorder.
2. Before the Commission may act on a conditional use application, it shall hold a public hearing thereon, following procedure as established in Section 10.430 through 10.460.
3. Within five (5) days after a decision has been rendered with reference to a conditional use application, the City Recorder shall provide the applicant with written notice of the decision of the Commission.

#### Section 6.050. TIME LIMIT ON A PERMIT FOR A CONDITIONAL USE.

Authorization of a conditional use shall be void after one (1) year or lesser time as the authorization may specify unless substantial construction has taken place pursuant thereto. However, the Commission may extend, if so requested, authorization for an additional period not to exceed one (1) year.

#### Section 6.060. HOME OCCUPATIONS.

The Commission may impose a condition upon a conditional use permit for a home occupation providing for an annual or other periodic review of the home occupation permit to assure that it is in compliance with all of the home occupation criteria and conditions. If such a condition is imposed, the Commission may terminate or modify the permit if the permittee is found to be not in compliance with conditional use criteria or conditions. In the event the Commission desires to consider termination or modification of a home occupation conditional use permit, a public hearing shall be noticed in accordance with the notice requirement for a conditional use permit.

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# City Municipal Code Results

## ARTICLE 7

### EXCEPTIONS AND VARIANCES

#### Section 7.010. GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS.

If a property ownership, whether it be a lot or more than one (1) contiguous lot held in a single ownership, at the time of passage of Ordinance No. 374, or other ordinance imposing a specific requirement, had an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, provided that, if there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. The record of ownership as recorded in the office of the Wallowa County Clerk at the time of passage of Ordinance No. 374 shall be the basis for application of this exception unless the owner submits proof that a different ownership existed at the time the provisions of Ordinance No. 374 became applicable to the land concerned.

#### Section 7.020. GENERAL EXCEPTIONS TO YARD REQUIREMENTS.

The following exceptions to yard requirements are authorized for a lot in any zone:

1. If there are buildings on both abutting lots which are within one hundred (100') feet of the intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
2. If there is a building on one abutting lot which is within one hundred (100') feet of the lot, and this building has a front yard for the lot need not exceed a depth halfway between the depth of the front yard of abutting lot and the required front yard depth.

#### Section 7.030. EXCEPTION TO HEIGHT LIMITATION.

No variance shall be granted authorizing the erection or construction of a structure to a height which penetrates the imaginary surfaces as specified in the Airport Overlay Map unless specific findings are made that said variance is in compliance with all substantive and procedural requirements of Federal Aeronautics Regulation FAR, part 77.

#### Section 7.040. AUTHORIZATION TO GRANT OR DENY VARIANCES.

The Commission may authorize a variance from the requirements of this ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance the Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this ordinance.

#### Section 7.050. CONDITIONS FOR GRANTING A VARIANCE.

A variance may be granted only in the event that all of the following circumstances exist.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this ordinance have had no control.
2. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
3. The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.
4. The variance requested is the minimum variance which would alleviate the hardship.

**Section 7.060. PROCEDURE FOR TAKING ACTION ON A VARIANCE APPLICATION.**

The procedure for taking action on a variance application shall be as follows:

1. A property owner may initiate a request for a variance by filing an application with the City Recorder, using forms prescribed pursuant to ARTICLE 7.
2. Before the Commission may act on a variance application it shall hold a public hearing thereon, following procedure as established in Section 10.430 through 10.460.
3. Within five (5) days after a decision has been rendered with reference to a conditional use application, the City Recorder shall provide the applicant with written notice of the decision of the Commission.

**Section 7.070. TIME LIMIT ON A PERMIT FOR A VARIANCE.**

Authorization of a variance shall be void after one (1) year unless substantial construction has taken place thereto. The Commission may, if so requested, extend authorization for an additional period not to exceed one (1) year.

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### ARTICLE 8

#### FLOOD HAZARD AREAS

##### Section 8.010. DEFINITIONS.

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

1. **AREA OF SPECIAL FLOOD HAZARD.** The land in the flood plain within a community subject to a one (1%) percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
2. **FLOOD INSURANCE RATE MAP (FIRM).** The official maps on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
3. **FLOOD HAZARD ZONE.** An overlay zone covering the area designated as an area of special flood hazard in Map 41063C0604B of the Flood Insurance Study for the City of Enterprise; the regulations contained in this article apply only to lands within said zone. The flood hazard zone is the same as the area of special flood hazard and is designated on the Flood Insurance Rate Map by the letters A or B.
4. **FLOOD INSURANCE STUDY.** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
5. **FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
6. **LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable design requirements of this ordinance found at Section 8.090 subparagraph 1B.
7. **MANUFACTURED HOME.** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term 'manufactured home' also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term 'manufactured home' does not include park trailers, travel trailers, and other similar vehicles.
8. **MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
9. **NEW CONSTRUCTION.** Structures for which the 'start of construction' commenced on or after the effective date of this ordinance.
10. **START OF CONSTRUCTION.** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such a clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure.
11. **STRUCTURE.** A walled and roofed building including a gas or liquid storage tank that is principally above ground.
12. **VARIANCE.** A grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

##### Section 8.020. LANDS TO WHICH THIS ORDINANCE APPLIES.

ARTICLE 8 of this ordinance shall apply to all lands within the Flood Hazard Zone and within the jurisdiction of the City of

Enterprise, Wallowa County, Oregon.

**Section 8.030. AREAS OF SPECIAL FLOOD HAZARD.**

The areas of special flood hazard identified by the Federal Insurance Administration in a report entitled 'The Flood Insurance Study for the City of Enterprise,' dated February 17, 1988, with accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Enterprise City Hall, 108 N.E. First, Enterprise, Oregon. The lands designated as 'area of special flood hazard,' identified in Map 41063C0604B of said study, are hereby designated as the city's Flood Hazard Zone.

**Section 8.040. PERMIT REQUIRED.**

Prior to the commencement of any development, including fill and other activities within a flood hazard zone and including installation of new mobile homes within an existing mobile home park and/or recreational vehicle park, a zoning perm it shall be obtained from the City Recorder. No such permit shall be issued unless, 1) compliance with the standards contained herein is first demonstrated, and 2) all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required.

**Section 8.050. APPLICATION.**

Application for a zoning permit in a flood hazard zone shall, in addition to the information required by Section 10.220, contain the following:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all proposed structures and the elevation (in relation to mean sea level) of the existing ground at the location of each proposed structure;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 8.090 subparagraph 2; and
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

No application shall be deemed complete that does not contain the elevations required in subparagraphs 1 and 2 of this section.

**Section 8.060. USE OF OTHER BASE FLOOD DATA.**

When base flood elevation data is not available for an area within the flood hazard zone, the City Recorder will obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the standards contained herein.

**Section 8.070. INFORMATION TO BE MAINTAINED.**

The City Recorder shall maintain the following information with respect to permit applications within the flood hazard zone:

1. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 8.060, the City Recorder shall maintain records showing the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed structures records showing the actual elevation of the structure (in relation to mean sea level), and the floodproofing certifications required in Section 8.050, shall be maintained.
3. All records pertaining to the provisions of this ordinance shall be available for public inspection.

**Section 8.080. GENERAL STANDARDS.**

In the flood hazard zone, the following standards shall be met:

**1. ANCHORING.**

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA'S 'Manufactured Home Installation in Flood Hazard Area' guidebook for additional techniques).

**2. CONSTRUCTION MATERIALS AND METHODS.**

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- C. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**3. UTILITIES.**



- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  - B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
  - C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
4. ALTERATION OF WATER COURSES. Prior to granting a permit for a development or proposal to alter the location of an existing watercourse, or prior to undertaking such activity itself, the City shall:
- A. Notify adjacent communities and the State of Oregon Land Conservation and Development, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - B. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. REVIEW OF PERMITS. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 8.060), applications for flood area permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgement and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2') feet above grade in these zones may result in higher insurance rates.

#### Section 8.090. SPECIFIC STANDARDS.

In areas where base flood elevation data has been provided (i.e., in the flood hazard zones adjacent to Prairie Creek and Wallowa River), the following provisions shall be met:

##### 1. RESIDENTIAL CONSTRUCTION.

- A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one (1') foot above base flood elevation.
- B. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - 1) A minimum of two (2) openings having a total net area of not less than one (1") square inch for every one (1') square foot of enclosed area subject to flooding shall be provided.
  - 2) The bottom of all openings shall be no higher than one (1') foot above grade.
  - 3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

##### 2. NONRESIDENTIAL CONSTRUCTION.

- A. New construction and substantial improvements of any commercial industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one (1') foot above of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - 1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - 2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - 3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subparagraph based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 8.070, subparagraph 2.
- B. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subparagraph 1b above.

3. MANUFACTURED HOMES. All manufactured homes to be placed or substantially improved within the flood hazard area shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one (1') foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 8.080 subparagraph 1, provided however, that this provision shall not apply to manufactured homes within an existing mobile home park and/or recreational vehicle park, provided further however, that if federal law is changed to require that manufactured homes newly located within review for compliance with the standards contained herein in order for the city to be in compliance with standards for the Federal Flood Insurance Program, then commencing on the date said federal law requires such review, no permit for installation of a manufactured home in an existing mobile home park and/or recreational vehicle park shall be issued without requiring compliance with the elevation standard contained in this subparagraph.

#### Section 8.100. FLOODWAYS.

The following provisions apply to all designated floodways within the flood hazard zone except the Prairie Creek floodway.

- 1. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless

certification by a registered professional engineer or architect if provided demonstrate that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If subparagraph 1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

#### Section 8.110. PRAIRIE CREEK FLOODWAY.

The following restrictions shall apply within the Prairie Creek floodway.

1. All filling allowed in the floodway must be confined to the actual building site and there can be no filling or other blockages placed in the channel nor fills in the floodway which, either alone or in conjunction with preexisting fills or structures, cause a blockage perpendicular to the anticipated flow of flood waters on the floodway. To the maximum extent feasible, fills in the floodway must be compensated by cuts or extractions of like amounts of materials.
2. To the extent reasonably possible:
  - A. If a lot is partially in the floodway and partially in the floodway fringe, any improvement shall be placed in the portion of the lot not in the floodway;
  - B. In the event part of the floodway is permitted to be used as a building site, the highest portion of said lot should be so utilized; and
  - C. New structures should be placed in the hydraulic shadow of existing encroachments, improvements or structures.
3. The City may impose such conditions for issuance of a permit in the Prairie Creek floodway deemed necessary or appropriate to minimize the impact of the proposed structure upon water flow in the floodway or to prevent flood damage to property.
4. All the provisions and restrictions contained in this ordinance regarding construction in a flood hazard area, except the provisions of Section 8.100 shall be applicable to development within the Prairie Creek floodway.

#### Section 8.120. VARIANCE.

1. The Commission may grant a variance from the provisions of this section if, after a public hearing thereon, the Commission finds the applicant has demonstrated compliance with the criteria contained in this section.
2. In passing upon such application, the Commission shall consider all technical evaluations and all relevant factors and standards specified in other sections of this ordinance, and:
  - A. The danger that materials may be swept onto other lands to the injury of others;
  - B. The danger to life and property due to flooding or erosion damage;
  - C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage and the effect of such damage on the individual owner;
  - D. The importance of the services provided by the proposed facility to the community;
  - E. The necessity to the facility of a waterfront location, where applicable;
  - F. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - G. The compatibility of the proposed use with existing and anticipated development;
  - H. The relationship of the proposed use to the Land Use Plan and flood plain management program for that area;
  - I. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - K. The costs of providing governmental services during and after flood conditions, including maintenance and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subparagraph 2 above have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

4. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
5. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
6. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
7. Variances shall only be issued upon:
  - A. A showing of good and sufficient cause;
  - B. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subparagraph 2 herein, or conflict with existing local laws or ordinances.

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

9. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subparagraph 3 herein, and otherwise complies with Section 8.080 subparagraphs 1 and 2 of this ordinance.

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

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# City Municipal Code Results

## ARTICLE 9

### LOT LINE ADJUSTMENTS, PARTITIONS, SUBDIVISIONS

#### CHAPTER I

##### INTRODUCTORY PROVISIONS

###### Section 9.110. PURPOSE.

In their interpretation and application the provisions of this article shall be held to be the minimum requirement adopted for the public health, safety, and welfare. These provisions are intended to provide for a) permanently wholesome community environment; b) adequate public service; c) safe streets, and are intended to accomplish the following objectives:

1. Better living conditions within new subdivisions and partitions;
2. Areas which may be economically developed;
3. Simplified and definite land descriptions;
4. Establishment and development of streets, utilities and public areas;
5. Stabilization of property values in subdivisions or partitions and adjacent areas; and
6. To facilitate provision of housing at a reasonable cost.

###### Section 9.120. COMPLIANCE REQUIRED.

1. No person shall effect a lot line adjustment or subdivide or partition an area or tract of land without compliance with the provisions of this article.
2. No person shall dispose of, transfer, sell, or agree, offer or negotiate to sell any lot in any subdivision or partition with respect to which approval is required by the provisions of this ordinance until such approval is obtained and the plat thereof has been acknowledged and recorded in the Wallowa County Clerk's office.
3. No person shall dispose of, transfer or sell any parcel in a subdivision or major or minor partition prior to approval as required by the provisions of this ordinance.
4. No person subdividing or partitioning a parcel of land shall lay out, construct, open or dedicate thereon a street, sanitary sewer system, storm drainage system, water supply or other improvements for public or common use unless the subdividing or partitioning has received preliminary construction plan approval pursuant to the provisions of this ordinance.

#### CHAPTER II

##### LOT LINE ADJUSTMENTS

###### Section 9.210. APPROVAL OF LOT LINE ADJUSTMENTS.

1. No person shall complete a lot line adjustment without applying for and receiving the approval from the City Recorder. Applications for a lot line adjustment shall include a map, superimposed upon a tax lot map, showing the dimensions of the proposed lot line adjustment. The application shall contain such additional information as is necessary to determine whether the proposed transfer constitutes a lot line adjustment or a subdivision or partition.
2. Lot line adjustment applications shall be determined by the City Recorder and no public hearing shall be required. The City Recorder may refer a lot line adjustment to the Commission for review or decision. Lot line adjustments may be approved on the following findings:
  - A. The conveyance proposed will not create a new lot or parcel and will constitute a lot line adjustment as defined in this ordinance; and
  - B. Every parcel affected by the proposed transfer will constitute a lawful parcel under this ordinance and that the lot line adjustment

will not cause any land in present contiguous ownership to be of a size or configuration not in compliance with the standards for new lots under this ordinance.

C. The new lot line created by the lot line adjustment shall be set back from existing buildings in a manner that complies with the setback requirements of this ordinance.

3. If the lot line adjustment adjusts a boundary in a manner that is parallel to the pre-existing boundary, no survey is required in conjunction with such lot line adjustment. In the event the adjusted boundary is not parallel to the preexisting boundary, the applicant shall cause to be prepared, and filed with the office of the County Surveyor, a survey of the adjusted boundary lines; a copy of such survey shall be filed with the City Recorder prior to final approval of the lot line adjustment by the city.

#### Section 9.220. DETERMINING WHETHER LOT LINE ADJUSTMENT OR PARTITION.

1. If no new lot or parcel is created by a proposed conveyance, then such conveyance shall be treated as a lot line adjustment. A conveyance of property which has the effect of creating additional lots or parcels is always a partition or subdivision.

2. In determining whether a proposed conveyance involves the creation of an additional lot or parcel, the following rules apply:

A. A lot created by a lawful subdivision or partition, recorded in the office of the Wallowa County Clerk, is always a separate and discrete parcel. For example, the division of an existing lot into two (2) parts for the purpose of joining it with an adjacent lot does not involve the creation of a parcel and is therefore a lot line adjustment.

B. The conveyance of a portion of an unplatted parcel, for purposes of adding it to a pre-existing platted lot, or any other pre-existing parcel, does not involve the creation of an additional parcel and therefore is a lot line adjustment.

C. If a parcel or a tract of land has, at any time since the recording of the federal patent, been a separate parcel, in separate ownership, it shall be considered a separate and discrete parcel for purposes of determining whether a lot line adjustment, or subdivision or partition is involved. If a tract of contiguous land, presently under a single ownership, is composed of parts that were formerly separate parcels, then the tract of land may be divided into as many parts as there were historic separate parcels and no new lot parcel shall be deemed to be created thereby. Any adjustment of the boundaries of said historic parcels may be conducted as a lot line adjustment.

D. Boundaries of tax lots, as established by the assessor's records, do not determine or control whether a tract of land is a separate parcel. Generally, a tax lot shall be considered as being created for the administrative convenience of the assessor in assessing and collection ad valorem taxes on the property.

### CHAPTER III

#### MINOR PARTITIONS

##### Section 9.310. APPLICATION FOR A MINOR PARTITION.

Any person desiring approval of a minor partition shall file an application with the City Recorder containing the information set forth in Section 9.320.

##### Section 9.320. GENERAL INFORMATION.

The following information shall be contained in an application for a minor partition:

1. North point and scale and date.
2. Names and addresses of the land owner(s), mortgagees, if any, the subdivider or partitioned and the engineer or surveyor responsible for the surveying and preparation of the description for each parcel involved.
3. A plan of the proposed partition showing parcel dimensions, bearings of all lines, area of each parcel, the names of existing and proposed streets and the location and dimensions of existing and proposed buildings and structures.
4. Topography, when considered necessary by the Council.
5. Legal description.
6. A statement regarding contemplated water supply and sewage disposal for each tract.
7. Such additional information as the City Recorder deems necessary within the intent of this ordinance.

##### Section 9.330. REVIEW AND APPROVAL OF A MINOR PARTITION.

Whenever acreage, tracts or parcels are proposed to be partitioned without the creation of a street, an application shall be first submitted to the City Recorder containing such of the information specified in Section 9.320 herein, as may be required by the City Recorder. Review of the application shall occur after the notice and opportunity for comment provided by Section 10.410. Final approval may be obtained from the City Recorder without submission to the Commission, provided, however, the following conditions are met:

1. The proposed parcels conform to the minimum lot size requirement of this ordinance;
2. That, given the shape and dimensions of the proposed parcels they are buildable after compliance with the required setbacks;
3. The proposed parcels conform with the provisions of the Land Use Plan;
4. The proposed parcels conform to the general provisions of this ordinance;

5. Water and sewer mains can be provided to the lot line by extensions of no more than sixty (60') feet;
6. That, in the judgment of the City Recorder and Superintendent, streets serving the proposed parcels shall be adequately improved under the standards set forth in this ordinance to serve the proposed parcels.

The City Recorder shall, if provisions of subparagraph 5 or 6 of this section are not met, refer the matter to the Commission and, also, may refer any other minor partition applications to the Commission if considered appropriate by the City Recorder. The City Recorder shall have ten (10) days from submission of application to either approve or deny the application or refer the same to the Commission.

#### Section 9.335. ACCESS REVIEW IN CONJUNCTION WITH MINOR PARTITION.

An access review shall be conducted as specified in Section 10.415 prior to a minor partition approval and conditions may be imposed upon said approval of a nature authorized by said sections. (Added by Ord. 523 § 1 (part), 1999)

#### Section 9.340. APPROVAL OF MINOR PARTITION MAP.

Following approval of minor partition as provided in Section 9.330 the applicant shall cause to be prepared a final minor partition map meeting all the technical requirements of ORS Chapter 92. Said final partition maps shall be submitted to the City Recorder for review and shall be approved by the City Recorder in the event it is in conformance with, 1) the City Recorder or Commissions preliminary approval, and 2) the requirements of ORS Chapter 92.

### CHAPTER IV

#### TENTATIVE PLAN APPROVAL FOR SUBDIVISIONS AND MAJOR PARTITIONS

##### Section 9.410. SUBMISSION OF TENTATIVE SUBDIVISION OR PARTITION PLAN.

Whenever it is proposed to subdivide or partition land, those persons responsible for said subdivision or partition shall prepare and submit at least ten (10) copies of the tentative plan to the City Recorder's office. The tentative plan shall contain such information as indicated below. Tentative plans and accompanying information shall be provided the city at least thirty (30) days prior to review by the Commission.

##### Section 9.420. SCALE.

The tentative plan of the subdivision or partition shall be on a scale of one (1") inch equals one hundred (100') feet or, for areas over one hundred (100) acres, one (1") inch equals two hundred (200') feet.

##### Section 9.430. REQUIRED INFORMATION.

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

1. Proposed name of the subdivision or partition. This name shall not duplicate nor resemble the name of another subdivision or partition in Wallowa County and shall be subject to approval by the Commission.
2. Date, north point and scale of drawing and approximate acreage.
3. Appropriate identification clearly stating the drawing is a tentative plat.
4. Location of the subdivision or partition by a legal description ( e.g. by section, township and range reference or by other appropriate survey reference) sufficient to define the location and boundaries of the proposed tract.
5. Names and addresses of the owner, contract seller, mortgagees, if any, subdivider or partitioner and engineer or surveyor.
6. A vicinity map at a small scale, i.e., one (1") inch equals four hundred (400') feet, shall be provided showing:
  - A. All existing lot lines and street rights-of-way immediately adjoining the proposed subdivision or partition and the location of the nearest public road(s).
  - B. The manner in which streets and alleys in the proposed subdivision or partition may connect with existing or proposed streets and alleys in neighboring property to produce the most advantageous development of the entire area.
7. Names of the owners of record of all contiguous land.
8. The acreage of the proposed development.
9. The location, widths and names of both opened and unopened streets within or adjacent to the tract, together with easements and other important features, such as section lines, corners, city boundary lines and monuments.
10. Contour lines related to some established bench mark or other datum approved by the Superintendent and having minimum intervals as follows:
  - A. For slopes of less than five (5%) percent: two (2') feet.
  - B. For slopes of five (5%) percent to fifteen (15%) percent: five (5') feet.
  - C. For slopes of over fifteen (15%) percent: ten (10') feet.
11. The location of at least one (1) temporary bench mark within the plat boundaries.
12. The location, width, and direction of visible water courses and location of the boundary of any flood hazard area and/or floodway area, within the boundaries of the proposed tentative plat.

13. Natural features such as rock outcroppings, marshes, wooded areas, isolated preservable trees, historic or other unique features.
14. Existing uses of the property, including location of all existing structures to remain on the property after platting, and existing structures to be removed.
15. The location in the adjoining streets or property of existing or proposed sewers and water mains, culverts and drain pipes, electrical conduits or lines proposed to be used or connected to the property to be subdivided or partitioned. The invert elevations of sewers, culverts and drains shall be shown at points of proposed connection.
16. The Land Use Plan and zoning classifications of the proposed subdivision or partition and land adjacent to the proposed subdivision or partition.
17. If located within a flood hazard zone, information required by ARTICLE 8 of this ordinance.
18. The location, width, names, approximate grades and radii of curves of streets. The relationship of streets to any projected streets as shown on any development plan adopted by the Commission, or, if no development plan has been adopted, as may be suggested by the Commission in order to assure adequate traffic circulations.
19. The location, width and purpose of easements.
20. The location and approximate dimensions of lots and the proposed lot and block letters.
21. Sites, if any, allocated for purposes other than single-family or two-family dwellings.
22. All parcels of land intended to be dedicated for public use or reserved for common use of the property owners in the subdivision or partition with the purpose, condition or limitations of such reservation clearly indicated.

#### Section 9.440. EXPLANATORY INFORMATION WITH TENTATIVE PLAN.

The following information shall be required by the Commission and, if it cannot be easily shown on the tentative plan, it shall be submitted in separate statements accompanying the tentative plat:

1. Proposed deed restrictions, if any, in outline form.
2. The location within the subdivision or partition and in the adjoining streets and property of existing sewers, water mains, culverts, drain pipes, electric lines, fire hydrants and street lights.
3. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision or partition showing the approximate grade of streets and the nature and extent of street construction.
4. A plan for domestic water supply, including the source, and plans for water lines and fire protection, including estimated pressure.
5. Proposals for sewage disposal and flood control, including profiles of proposed storm drainage systems.
6. Proposals for other improvements such as television cable service, telephone, electric and gas utilities and street lights.
7. Areas with high water tables within the proposed subdivision or partition shall be identified.
8. The time the proposed improvements are proposed to be made or installed.
9. Preliminary engineering information for all subdivision or partition improvements sufficient in detail to facilitate adequate city review and to insure that the proposed subdivision or partition plan, and all proposed improvements are practicable and in compliance with city standards. Detailed engineering drawings are not required prior to tentative plat review.
10. Such additional information as may be required by the Commission to insure compliance with the objectives of this ordinance.

#### Section 9.450. PARTIAL DEVELOPMENT.

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

#### Section 9.460. PRELIMINARY REVIEW OF TENTATIVE PLAN.

Upon receipt, the City Recorder shall furnish one (1) copy of a tentative plan and supplementary information to the Superintendent and such other agencies as are known to be affected, including, but not limited to, irrigation districts, special water districts, fire districts and school districts.

#### Section 9.470. NATURE OF REVIEW.

The Commission and Council shall review a subdivision and major partition pursuant to the procedures required for a limited land use decision under state law. The notice and review procedures set forth in Sections 10.410 and 10.420 shall be followed. In addition to the requirements of Section 10.410, a notice of the Commission's initial review meeting shall be published in a local newspaper of general circulation at least ten (10) days prior to the Commission's initial review. Any interested person may appear and comment, orally or in writing at such Commission review. Such public notice and opportunity for comment is not a public hearing and the city is not required to comply with the specific public hearing procedural requirements imposed by state law.

#### Section 9.480. REVIEW OF TENTATIVE PLAN AND IMPROVEMENT SPECIFICATIONS.

1. The Commission shall review a tentative plan and the proposed specifications for all subdivision or partition improvements and shall make a recommendation regarding a decision on the application to the Council. Thereafter, the Council shall review the application and make a final decision thereon without public hearing.

2. Review shall consist of two (2) separate components, namely 1) the proposed plat layout and contents of the tentative plan, including the street circulation plan and lot dimensions, and 2) the precise improvement standards and specifications of all of the subdivision and partition improvements including, without limiting the foregoing, water facilities, sewer facilities, street facilities, sidewalks, curbs, storm drainage systems, street lighting and utility plan.
3. Improvement standards shall be finally approved as part of the review of the tentative subdivision or partition plan. Review of specifications for subdivision or partition improvements may be referred to the Superintendent for later review and decision in those cases where the city has adopted detailed improvement standards or in other cases where the Council so provides in its tentative plat approval. No construction of subdivision or partition improvements shall occur prior to a) approval of the tentative plat by the Council and b) approval of the detailed improvement specifications by the Superintendent.
4. It is the responsibility of the applicant to secure an inspection by the Superintendent of all subdivision or partition improvements at such inspection points as may be specified by the Superintendent. No subsurface facility, such as a buried water or sewer line or appurtenance thereto, shall be covered prior to securing inspection and acceptance by the Superintendent.
5. An access review shall be conducted as specified in Section 10.415 and conditions may be imposed upon any subdivision or partition approval of the nature authorized by said section. (Amended by Ord. 523 § 2 (part), 1999)

## CHAPTER V

### FINAL PLAT

#### Section 9.510. SUBMISSION OF FINAL PLAT.

Within one (1) year after approval of the tentative plan, the subdivider or partitioner shall cause the subdivision or partition or any part thereof to be surveyed and a plat prepared in conformance with and indicating the same information as the tentative plan and any additional provisions required by the Commission. Time extensions may be granted, if so requested and deemed necessary by the Commission.

#### Section 9.520. ACTION ON FINAL PLAT.

The final plat review shall be conducted by the Commission and Council, with the Commission making a recommendation to the Council. Review shall be made under the following criteria and form:

1. Whether the final plat map is substantially in accord with the approved tentative plan and contains information and complies with the specific requirements of this ordinance and ORS Chapter 92.
2. Whether the subdivision or partition improvements have been installed in accordance with the requirements and specifications required by the City and whether the Superintendent has inspected said improvements and accepted the same.
3. In the event any improvements are proposed to be constructed after the recording of the final plat, the proposed bond or other agreement to be posted by the applicant to comply with the requirements of Section 9.550.

#### Section 9.530. CONTENTS OF FINAL PLAT.

1. The applicant shall submit a final plat containing all of the specific information required by ORS Chapter 92 or by this ordinance, together with all of the information required by the city's tentative plat approval. The supplementary information required by Section 9.540 shall be submitted with the final plat.
2. Before approval by the Commission, the final plat shall indicate the signatures of all owners of the property, all persons set out in the dedication, signatures of the mortgagees, if any, the signature and seal of the surveyor or engineer responsible for the laying out of the subdivision or partition and all protective or restrictive covenants, together with the signatures of the following public officials:
  - A. Enterprise Superintendent and City Recorder;
  - B. Wallowa County Assessor;
  - C. Wallowa County Tax Collector;
  - D. City of Enterprise Surveyor or, if none, the Wallowa County Surveyor.
3. All other public officials as required by law. All signatures must be with black India ink. The plat shall be presented and prepared on such material as required by ORS Chapter 92.

#### Section 9.540. SUPPLEMENTARY INFORMATION WITH FINAL PLAT.

The following data shall accompany the final plat:

1. A title report issued by a title insurance company in the name of the land, showing all parties whose consent is necessary and their interests in the premises.
2. Sheets and drawings showing the following:
  - A. Traverse data including the coordinates of the boundary of the subdivision or partition and ties to section corners and donation land claim corners, and showing the error of closure, if any.
  - B. The computation of all distances, angles and courses shown on the final plat.



3. All Homeowners Agreements, Articles, Covenants, Deed Restrictions, and By-laws applicable to the subdivision or partition.
4. A certificate by the Superintendent that the subdivider or partitioner has complied with one (1) of the following alternatives:
  - A. All improvements have been installed in accordance with the requirements of these regulations and with the action of the Commission giving conditional approval of the tentative plat; or
  - B. An agreement has been executed as provided in Section 9.550 to assure completion of required improvements.

#### Section 9.550. AGREEMENT AND BOND FOR IMPROVEMENTS.

Before the Commission signs the final plat, the subdivider or partitioner shall either install the required improvements and repair existing streets and all other public facilities damaged during development, or file an agreement with the City specifying the improvements to be completed, guaranteeing that the improvements and repairs will be completed within the time period required by the Commission at the time of the tentative plan approval; the Commission shall, if possible, specify the terms of the agreement for improvements at the time the tentative plan is approved. The agreement may provide for the construction of the improvements in units, with one (1) block of street frontage being a minimum unit allowed.

1. The subdivider or partitioner shall file with the agreement one (1) of the following to assure his or her faithful performance thereof:
  - A. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney.
  - B. An agreement, duly signed and executed by the subdivider or partitioner, assigning his account in a legal savings institution in the State of Oregon to the City.
  - C. Cash.
  - D. Other agreements acceptable to the City Attorney, guaranteeing the required improvements will be completed within the time limit set by the Commission.

2. Such assurances of full and faithful performance shall be for a sum determined by the Superintendent as sufficient to cover one hundred twenty (120%) percent of the cost of the improvements and repairs, including related city expense. The performance bond shall guarantee the improvements to be free of defects for two (2) years after written acceptance by the Superintendent.

3. If the subdivider or partitioner proposed to construct all required improvements prior to final plat approval thereby avoiding posting a bond, as required by this section, then the subdivider or partitioner shall make appropriate arrangements with the Superintendent for inspection of all work at appropriate stages of completion at which an inspection can be made. Prior to approval of the final plat, the Superintendent shall certify that all required inspections were made at stages of completion whereby adequate inspection was possible and that the improvements comply with city specifications. If the subdivider or partitioner did not secure the Superintendent's inspection at a stage of completion where adequate inspection could be made then, as a condition of approval of a final plat, a performance bond guaranteeing improvements to be free of defects for two (2) years after acceptance by the City, shall be posted.

4. If the subdivider or partitioner fails to carry out provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, savings account or if the cash deposit is less than the cost and expense incurred by the City, the subdivider or partitioner shall be liable to the city for the difference.

#### Section 9.560. COMMISSION APPROVAL OF FINAL PLAT.

1. If desired by the subdivider or partitioner, the final plat may contain only a portion of the approved preliminary plan, and if such portion is filed and recorded as provided in this chapter, the approval of the tentative plan shall remain effective for a one (1) year period. If requested, the Commission may authorize extensions, not to exceed one (1) year at a time.

2. the Commission shall consider approval of a proposed final plat when an original and copies containing all the information required by this chapter, together with all supplementary information, has been submitted to the city and the following have occurred:

- A. Signatures of all parties specified in Section 9.530 have been obtained, together with the signatures of all owners of the property being subdivided or partitioned;

- B. A proposed agreement and/or bond for improvements, pursuant to Section 9.550 has been submitted or, if no such agreement or bond is required, certification report by the Superintendent that all required improvements, streets and public facilities have been completed.

3. The Commission may withhold final approval of a plat until a field check, within a reasonable time, has been made by the appropriate city official or the county's surveyor as required by ORS Chapter 92. If the Commission determines that the final plat conforms to all requirements as specified by this ordinance and with the requirements specified by the Commission as part of its tentative plan approval, the Commission shall give its approval to the final plat, provided, however, that all supplemental documents and provisions for proposed improvements are satisfactory. If the Commission does not approve the plat, it shall advise the subdivider or partitioner of the changes or additions, within the scope of these regulations and its tentative plat approval, which must be made and shall afford him or her an opportunity to make such corrections. After approval of the final plat by the Commission, the same shall be referred to the Council, and after approval by the Council, and after all conditions to said approval have been met, the Mayor of the City of Enterprise shall, without delay, affix his or her signature to the final plat.

### Section 9.570. RECORDING OF FINAL PLAT.

After approval by the Commission and the Council and signing by the Chairman and the Mayor, the subdivider or partitioner shall, without delay, submit the final plat for signatures of the following public officials:

1. Wallowa County Treasurer and Wallowa County Assessor;
2. Wallowa County Clerk for recording.

Approval of the final plat shall be null and void if the plat is not recorded within thirty (30) days after the date the county's signatures are obtained. After all the required signatures have been obtained, the subdivider or partitioner shall submit two (2) copies of the subdivision or partition plat to the City Recorder for inclusion in the official file.

## CHAPTER VI

### GENERAL REGULATIONS AND DESIGN STANDARDS

#### Section 9.610. APPLICATION.

The general regulations and design standards contained in this chapter shall apply to all land use applications, including subdivisions and partitions, and the design standards shall be applicable whenever the construction or improvement of facilities covered in this chapter are required in conjunction with a land use application. (Amended by Ord. 523 § 2 (part), 1999)

#### Section 9.615. IMPROVEMENTS TO CITY FACILITIES.

1. The officer or body empowered to approve a particular application may require the applicant to construct or improve streets, sidewalks and bikeways necessary to serve the proposed use or as are otherwise provided in this section or ordinance. The facilities which may be required to be constructed include, but are not limited to, the following:
  - A. Construction or improvement of streets, sidewalks, bikeways, or other transportation facilities (and dedication of necessary streets right-of-ways) whether on or off site, to the standards set forth in the City's TSP and in this ordinance.
  - B. Construction or improvement of City water and sewer main facilities necessary to serve the proposed use, whether on or off site and dedication thereof to the City.
  - C. Construction of such other utility facilities as are necessary and desirable to serve the proposed use including, without limiting the foregoing, storm drain facilities, electric distribution facilities, telecommunication facilities and cable television facilities.
2. Sidewalks shall be required to the standards set forth in the TSP and in this ordinance in the following circumstances:
  - A. In conjunction with new subdivisions, multi-family developments of four (4) or more units, planned developments, shopping centers and commercial districts.
  - B. Along an arterial, collector and most local streets in conjunction with new uses served by a new street.
  - C. In conjunction with any commercial use, or other use subject to site plan review, where (1) the use is in the CBD zone or in another area presently served by a sidewalk system, or adjacent to such an area, (2) the use is in, or adjacent to, an area presently without a sidewalk network that is planned for future sidewalks under the City's TSP capital improvements program and the sidewalks would connect to such future planned sidewalks, or (3) sidewalks would be in the public's interest due to public safety or other cause.
  - D. Where offsite road improvements are required, they shall include facilities for safe and convenient pedestrian access.
3. On-site facilities shall be provided which accommodate safe and convenient pedestrian and bicycle access from within new subdivisions, multi-family developments, planned developments, shopping centers and commercial districts to adjacent residential areas, transit stops and to neighborhood activity centers within one half mile of development. For purposes of this subsection, "neighborhood activity centers," includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers. For purposes of this subsection, "safe and convenient" means bicycle and pedestrian routes, facilities and improvements which:
  - A. Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips.
  - B. Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and
  - C. Meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the optimum trip length of pedestrians is generally one quarter to one half mile.
4. Bikeways, to the minimum specifications required by state law, shall be required along new arterials and major collector streets.
5. Accessways may be required in new subdivisions or in conjunction with uses, requiring site plan review where pedestrian access and circulation could be better provided by virtue of an accessway rather than a sidewalk. As used herein "accessway" means a walkway that provides pedestrian and or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop.
6. Bicycle parking facilities shall be required in conjunction with new multi-family residential development of four (4) units or more, new retail office and institutional developments and all transit transfer stations or park and ride lots. (Added by Ord. 523 § 1 (part), 1999)

**Section 9.620. STREETS.**

The location, width and grade of streets shall be considered in their relation to existing streets in the vicinity of the proposed subdivision or major partition, to topographical conditions, and to the proposed use of land to be served by the streets and shall be, wherever possible, prolongation of existing center lines. Streets shall be designed as to not create a hardship on abutting property owners. Private streets intended for public thoroughfare shall not be allowed. Streets should intersect at or as near right angles as practicable and, in no instance, shall they intersect at less than a seventy five (75°) degree angle. The Commission may modify these regulations if determined that topography or the small number of lots or parcels involved or other unusual, conditions justify such modifications. If not otherwise indicated in the Land Use Plan, or other pertinent city ordinances, streets shall conform to the standards as follows:

1. Unless the Commission and Council determine that a lesser width is sufficient, minimum right-of-way width shall be as follows:

**Type of Street****Minimum right-of-way width**

Arterial

80 feet

Collector Street

60 feet

Minor street

60 feet

Cul-de-sac (shall be circular in configuration. Minimum length 100 feet, maximum length 400 feet)

60 feet with a 75-ft. radius

Temporary dead-end

In conformance with the existing and proposed right-of-way.

Alleys

20 feet and no dead-ends.

2. **STREET GRADES.** No street grade shall be less than one half (1/2) of one (1%) percent nor in excess of ten (10%) percent, unless the Commission finds that, because of topographic condition, a steeper grade is necessary.

3. **RESERVE BLOCKS.** Reserve blocks controlling the access to public ways or which will not prove taxable for special improvements may be required by the Commission but will not be approved unless such strips are necessary for the protection of the public welfare or of substantial property rights, or both, and in no case, unless the land comprising such strips is placed in the name of the city for disposal and dedication for street or road purposes whenever such disposal and dedication has the approval of the Commission or such other person as may have jurisdiction.

4. **ADDITIONAL RIGHTS-OF-WAY.** Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional rights-of-way shall be required to allow all cut and full slopes to be within the rights-of-way.

5. **STREET NAMES.** Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the provisions of the Land Use Plan and shall be subject to the approval of the Commission.

6. **STREET DEDICATION.** If an area or unit of land to be subdivided or partitioned includes a portion of a right-of-way, highway or road, the location of which has been determined by the city but which has not been acquired by the city, the person subdividing or partitioning said land shall dedicate such right-of-way, highway or road for the purpose or use proposed up to the boundary of the subdivision or partition. In no instance shall a subdivider or partitioner be required to dedicate more than twenty-five (25%) percent of the total land area of the subdivision or partition.

7. **RADIUS AT STREET INTERSECTION.** The property line radius at street intersections shall be approved by the city.

8. **TWO-LEVEL STREETS.** Where it is determined that two-level streets best serve hillside tracts, the right-of-way shall be of sufficient width to provide on each level, space for one (1) sidewalk, plus a minimum width of twenty-two (22') feet for roadways, curbs and drainage facilities. Between the two (2) street levels and out to the right-of-way lines, there shall be space for all cut and fill slopes.

9. **STREET IMPROVEMENTS.** All plans and specifications for street improvements, including pavement, curbs, sidewalks and surface drainage shall be approved by the Commission prior to construction. Approval of the subdivision or partition may be withheld until the Commission is satisfied that all of the following improvements will be completed:

- A. Clearing and grading to full right-of-way limits.
  - B. Storm drainage system facilities both within and outside of rights-of-way limits.
  - C. Base and/or pavement materials for streets as specified by the Superintendent.
  - D. Concrete curbs and sidewalks, if considered so necessary by the Commission.
10. PAVING. Paving of streets shall be required. The Commission may defer the requirement of paving until a later date or time after receipt of an appropriate agreement or bond under Section 9.550 if immediate paving would cause any undue financial hardship.
11. IMPROVEMENT STANDARDS. New streets shall be improved in accordance with the general design configuration relating to improved street width, curbs, sidewalks, planter and parking strips in accordance with the standards set forth in the City's Transportation System Plan. (Amended by Ord. 523 § 2 (part), 1999)

#### Section 9.625. SIDEWALKS.

1. Sidewalks shall be constructed to a width of five (5) feet adjacent to streets classified as local and collector streets, to a width of six feet adjacent to arterial streets, except in the Central Business District where the sidewalks shall be constructed to a width of twelve (12) feet, unless the City Council approves a narrower sidewalk.
2. Sidewalks shall be constructed of concrete, unless the City Council authorizes an alternate material and shall be constructed to City specifications, as established by the Superintendent of Public Works. (Added by Ord. 523 § 1 (part), 1999)

#### Section 9.630. SUBDIVISION BLOCKS.

Block lengths and widths shall be determined by giving consideration to the following factors:

1. The distance and alignment of existing streets adjacent to or in the general vicinity of a proposed subdivision or partition;
2. Topography;
3. Adequate lot size;
4. Need for and direction of the flow of through and local traffic, provided, however, that in no instance shall the block width be less than one hundred eighty (180') feet, provided however, that the Commission need not require subdivision or partitions be laid out in blocks.

#### Section 9.640. MIDBLOCK WALKS.

Where topographic or other conditions make it necessary or desirable, the Commission may require a walk through a block on a public right-of-way of such width, at such location and of such material or materials as the Commission may specify.

#### Section 9.650. LOT SIZE.

1. All lots and parcels shall conform to minimums established in this ordinance.
2. In cul-de-sacs the minimum lot or parcel line fronting the turnaround shall be fifty (50') feet and, in no case, shall the lot or parcel width be less than sixty (60') feet at the building line. If topography, drainage or other conditions justify, the Commission may require a greater area on any or all lots or parcels.
3. An exception to the minimum lot size shall be applied to lots not served by a public sewer. In such cases the lot size shall permit compliance with the requirements of the Department of Environmental Quality and other factors deemed to be in the best interest of the public's health.

#### Section 9.660. CURVED FRONT LOT LINES.

When front lot lines are on a curve or arc, the front line distance shall be indicated on the final plat by bearing and chord distance.

#### Section 9.670. LOT LINE.

Side lot or parcel lines shall be as close to right angles to the front street line as practicable. Unless otherwise approved, rear lot lines shall be not less than one-half (1/2) the width of the front lot lines.

#### Section 9.680. BUILDING LINES ALONG STREETS.

Unless otherwise approved because of some unusual topographic or other conditions, minimum building lines shall be in accordance with setback requirements of the zone in which the subdivision or partition is located.

#### Section 9.690. PUBLIC SURVEY MONUMENTS.

Survey monuments shall be affixed at the site of all subdivision and partition of a type and at the locations as specified in ORS Chapter 92, together with other applicable provisions of Oregon State law.

#### Section 9.691. SEWAGE DISPOSAL.

Unless otherwise approved, all lots or parcels shall be serviced by the city's sewage system. The subdivider or partitioner shall furnish a set of plans from a professional engineer, registered in the State of Oregon, to the Commission, the Superintendent and the Department

of Environmental Quality. Before construction begins, the subdivider or partitioner shall furnish the City a complete copy of the approved sewage plan and all necessary permits. The plans shall be reviewed and approved by the Superintendent prior to commencement of construction. In constructing the sewage system, care should be given so that each lot has easy access to the line. The subdivider or partitioner shall also use the following as design standards for the installation and construction of the system:

1. All lines shall be placed on an even grade with a stub out of the last manhole.
2. Manholes shall be spaced at three hundred (300') foot intervals or at change of grade, change of direction, or change of pipe size. The manhole shall consist of concrete, forty two (42") inches in diameter, built to grade level and covered with an Oregon standard traffic cast iron ring and lid with a minimum twenty four (24") inch opening with one hole in the lid for pick opening. The line may be laid through the manhole, encased in concrete with a minimum of four (4") inches of concrete under and over the pipe. Six (6") inches shall be required in areas of high water table or in areas subject to flooding as on record in the City Recorder's office, with a protective barrier of plastic beneath the concrete. The finished bottom shall be sloped four (4) ways to the center trench, which shall be twenty four (24") inches in length and as wide as the line inside diameter for cleaning and servicing.
3. The minimum acceptable size for all main and trunk lines shall be eight (8") inches in diameter. A larger line size may be necessary depending on location. A smaller diameter line may be approved if adequate in capacity under the specific circumstances. As used herein, a sewer 'main' is a large line that circulates and is cross connected to the sewer system. A sewer 'trunk line' is a sewer line that is a lateral dead end line. All pipe shall have a minimum 1500 ASTM (3) point bearing method (1500 lbs. crush strength per square inch). In areas of greater stress such as railroads or heavy traffic routes, pipe shall be ASTM 2500. Culverts shall be used when crossing under railroad tracks and pipes shall be encased therein. All lines shall be laid to facilitate basement connections and shall be compacted when backfilled to minimize settling.
4. All connections shall be with either a sewer YEE or sewer gasket seal and saddle. The City will accept no responsibility or obligation for sewage service until the proposed extension is constructed according to the approved plans and the City has inspected the system and checked for water tightness. Upon completion of the system, the subdivider or partitioner shall, furnish the City with a complete set of plans indicating all specifications, types and profiles. The location, size and type of hookups and manholes shall also be provided as well as any additional information regarding the system. Additional sewer specifications may be found in relevant city ordinances. Construction of storm drainage systems shall use the same procedure and design standards as the sanitary sewer, but, in no instance, shall the storm drainage system be coupled into the sanitary sewage system. In the event it is impractical to connect the proposed subdivision or partition to the city sewer system, the Commission may authorize the use of septic tanks in accordance with the Department of Environmental Quality regulations governing the subsurface disposal of sewage, provided, however, in that event, minimum lot size shall be fifteen thousand (15,000') square feet. In such cases, prior to final approval of the plat, it shall be the responsibility of the subdivider or partitioner to provide a Department of Environmental Quality statement of suitability for each and every lot or parcel.

#### Section 9.692. WATER SUPPLY.

The subdivider or partitioner shall be responsible for providing water lines to each lot or parcel and connecting the subdivision or partition to city mains as required by this section, the Superintendent and the Commission. All water mains shall be of adequate size to service future development of adjacent property and, in no instance, shall the line be less than six (6") inches inside diameter and no less than Class one hundred fifty (150 PSI) pressure per square inch. Water mains shall be installed by the subdivider or partitioner to city specifications and the subdivider or partitioner shall arrange for inspection thereof by the Superintendent prior to the time the same are covered and prior to the time that other actions are taken that would make inspection difficult or impossible. Adequate water pressure shall be provided to each lot by the subdivider or partitioner.

#### Section 9.693. FIRE PROTECTION.

It shall be the subdivider's or responsibility to provide fire protection in accordance with the provisions of this section. There shall be at least one standard hydrant, as in use by the city, not more than six hundred (600') feet apart in any direction to be placed three (3') feet away from the lot line and located at or as near as practicable to a street intersection. The hydrant shall consist of two hose nozzles and one pumper nozzle with a valve opening size of not less than five and one-quarter (5 1/4") inches. The size of the supply line shall not be less than six (6") inches inside diameter, and shall have an auxiliary valve. The installation of the fire protection facilities shall be performed by the City and billed to the subdivider or partitioner.

#### Section 9.694. UNDERGROUND FACILITIES.

All permanent utility service to lots in a subdivision or partition shall be provided from underground facilities and no overhead utility service to a subdivision or partition shall be permitted. The subdivider or partitioner shall be responsible for complying with the requirements of this section and shall:

1. Obtain all necessary permits for the placement of all underground facilities.
2. Make all necessary arrangements with utility companies and other persons or corporations affected by the installation of such underground lines and facilities in accordance with the rules and regulations of the Public Utility Commissioner of the State of Oregon.

3. Underground easement for utilities shall be provided for by the subdivider or partitioner and set forth on the final plat. Each easement shall be minimum of ten (10') feet in width and, when possible, centered on a bordering lot line.

## CHAPTER VII

### SPECIAL PROVISIONS

#### Section 9.710. VARIANCE APPLICATION.

The Commission may authorize conditional variances to requirements of this ordinance. A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity and result from tract size or shape, topography or other circumstances.
2. The variance is necessary for the preservation of a property rights of the applicant substantially the same as owners of other property in the same vicinity possess.
3. The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.
4. The variance is the minimum variance which would alleviate the hardship. In requesting a variance, the applicant shall submit a written statement specifying the reasons and conditions a specific variance should be granted. The request shall be submitted to the Commission before the presentation of the final plat. Prior to taking any action on the variance request, the Commission shall hold a public hearing after giving the notice as specified in Sections 10.430 through 10.460 of this ordinance. In granting or denying a variance, the Commission shall make a written record of its findings and the facts therewith, and shall describe the variance granted and the conditions designated. The City shall keep the findings on file as a matter of record.

#### Section 9.720. FLOOD HAZARD AREAS.

1. In all flood hazard areas it shall be the subdivider or partitioner's responsibility to provide base flood elevation data on proposed new developments greater than five (5) acres or fifty (50) lots, whichever is the lesser.
2. Within flood hazard areas all subdivision and partition proposals involving the planned or potential construction of an additional structure shall comply with the following general standards:
  - A. All proposals shall be consistent with the need to minimize flood damage;
  - B. All proposals shall be reviewed to assure that all structures on all lots can comply with other city regulations governing construction in flood hazard areas, including foundation and floor elevation requirements;
  - C. All proposals shall have adequate storm drainage systems provided to reduce exposure to flood damage; and
  - D. All proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. In the event base flood elevation data becomes generally available for flood hazard areas within the city, all subdivision and partition proposals shall include base flood elevation data. In the event such data is not required under subparagraph 1 of this section, the best information available shall be utilized to determine if the proposal is in conformance with the standards specified in subparagraph 2 of this section.

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# City Municipal Code Results

## ARTICLE 10

### ADMINISTRATIVE PROVISIONS

#### CHAPTER 1

##### APPLICATION PROCEDURES

###### Section 10.110. FORMS OF PETITIONS, APPLICATIONS AND APPEALS.

1. The petitions, applications, and appeals provided for in this ordinance should be made on forms prescribed by the City where the City has promulgated such forms; in the event no such forms have been promulgated the petition, application, or appeal should be made by the petitioner, applicant, or appellant in writing.
2. Applications should be accompanied by the plans and information otherwise required by this ordinance for the application in question. If the information required with an application is not specified elsewhere in this ordinance, the application shall be accompanied by plans, specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of existing and proposed structures; the intended use of each such structure; the number of families, if any, to be accommodated therein; location of city water and sewer facilities in which service to proposed structure is to be connected; the method of proposed access to the structure; relationship of the property to the surrounding area; and such other information as is needed to determine conformance with the provisions of this ordinance.

###### Section 10.120. FILING FEES.

The filing fees shall be paid to the City Recorder upon filing an application. Such fees will be used to defray the cost of administering this ordinance and shall be non-refundable.

##### FEES

Amendment proposed by Property Owner

\$ 200.00

Conditional Use Permit

125.00

Variance Permit

125.00

Zoning Permit

30.00

Alteration of Nonconforming Use

125.00

Site Plan Review

75.00

Appeals

250.00

Subdivisions, Major Partitions,

100.00

and Minor Partitions

+50.00/lot

Lot line Adjustments

30.00

**Section 10.130. REVIEW OF COMPLETENESS OF APPLICATION.**

1. The City Recorder shall have authority to determine whether an application is complete for every type application, including quasi judicial land use decisions to be determined by the Commission or the Council. The City Recorder shall have full authority to exercise discretion as to the nature of the information required to accompany an application in those cases where the requirements are generally stated in the ordinance and an exercise of discretion is necessary to determine the exact information required. The City Recorder may waive a requirement that specific information be submitted if the City Recorder believes that such information is not necessary for review of the application. When review is conducted by the Commission or Council, additional information may be required by either body.
2. The City Recorder shall make a decision as to whether a particular application is complete within thirty (30) days of filing of the application. An application is deemed filed when an applicant has submitted a written application and paid the required filing fee.
3. If the application is determined to be incomplete, the City Recorder shall notify the applicant of the same and shall further notify the applicant of the exact information required to be submitted. The Commission or Council may request additional information of the applicant at the time of their review regardless of the City Recorder's prior decision as to the information required.
4. If the applicant refuses to submit the additional information, the application shall be deemed complete upon the latest of the two following dates, 1) the date of notification from the applicant that he or she declines to provide the additional information or, 2) the 31st day after filing of the application.
5. In the event the applicant refuses to submit additional information, whether requested by the City Recorder pursuant to the authority granted in this section, or whether later requested by the Commission or Council in conjunction with their review, the application may be denied based upon the failure or refusal to provide such information.

**Section 10.140. LIMITATION ON REAPPLICATION.**

In the event an application for a permit or other approval required by this ordinance (other than a request for an amendment or zoning map covered by Section 11.010) is finally denied by the city an identical or similar application, covering the same property, may not be filed by the applicant within six (6) months of the final decision denying the prior application. The Commission, or other responsible officer, may decide whether consideration of an application should be barred due to similarity with a prior application, covering the same property, which was denied by the City within six (6) months of the filing of the second application.

**CHAPTER II****ZONING PERMITS****Section 10.210. ZONING PERMITS.**

Prior to the construction, reconstruction, alteration or change of use of a structure or lot, a zoning permit shall be obtained from the office of the City Recorder on the prescribed form. Zoning permits shall be nontransferable.

**Section 10.220. APPLICATION.**

Each applicant for a zoning permit shall submit an application, on the prescribed city form, and a plan of proposed development containing the information required by Section 10.110 and Section 10.130, and in the event the use is subject to a site plan review, the information required by ARTICLE 10, CHAPTER III.

**Section 10.230. STANDARDS FOR ISSUANCE OF A ZONING PERMIT.**

Subject to the provisions of ARTICLE 10, CHAPTER III governing site plan and view corridor review, and subject to provisions of Section 10.260 providing for improvement and installation of street, water and sewer service facilities, and subject to the imposition of conditions in accordance with Section 10.260, a zoning permit shall be issued in the event it is determined that the proposed development is in conformance with this and other ordinances of the City of Enterprise, and Oregon State law, including the State of Oregon building code adopted and administered by Wallowa County, Oregon. No zoning permit shall be issued if, at the time the applicant acquired the subject parcel, a lot line adjustment, subdivision or partition approval was required but not obtained, provided that such time as the applicant files for and obtains a subdivision or partition, or lot line adjustment approval, a zoning permit may be issued.

**Section 10.240. REVIEW PROCEDURE.**

1. The City Recorder shall review applications for zoning permits and shall, within ten (10) days of filing of a complete application, determine whether the zoning permit application meets the standards set forth in Section 10.230 and grant or deny the permit, or refer the application to the Commission for determination.
2. In the event it is necessary to improve a dedicated street in order to provide access to a proposed use, or in the event that an



extension of sewer and/or water mains costing in excess of Two Thousand and No/100ths (\$2,000.00) dollars is necessary in order to serve the proposed use, the City Recorder shall refer the application to the Commission for determination. The City Recorder, however, may refer any other application to the Commission for determination if, in the judgment of the City Recorder, the application should be reviewed by the Commission.

3. All zoning permit applications requiring site plan or view corridor review under ARTICLE 3, shall be referred to the Commission for review and determination.

4. An access review shall be conducted as specified in Section 10.415, prior to issuance of the zoning permit, and conditions of the nature authorized by said section may be imposed upon any such permit. (Amended by Ord. 523 § 2 (part), 1999)

#### Section 10.250. PLANNING COMMISSION REVIEW.

If a zoning permit application is referred to the Commission the applicant, and any other party requesting notice, shall be given ten (10) days written notice of the date, time and place the matter will be taken up by the Commission; the application shall be set on the agenda of the first regular Commission meeting which occurs, for which proper notice can be given. After review, the Commission shall either grant or deny the zoning permit provided, however, if the permit is granted, the Commission may impose such conditions as are authorized by Section 10.260 herein, and if site plan review is required may impose such conditions and stipulations as provided in ARTICLE 10, CHAPTER III.

#### Section 10.260. ZONING PERMIT CONDITIONS.

1. Each zoning permit issued by the City shall have, as a legal condition hereof, that construction will be made in accordance with the plans and specifications submitted to the city, the provisions of this ordinance together with other ordinances of the city, and Oregon State law, including the State of Oregon building code currently in effect.

2. The City Recorder, or Commission, may impose conditions on a zoning permit when, in their sole judgment, it is deemed necessary and appropriate to implement the provisions of this ordinance or the Land Use Plan.

3. The City Recorder, or Commission may further require as conditions of said permit, that provision for access be made, including improvement of existing dedicated streets, or extension thereof where appropriate and necessary, and may make further provisions with regard to location and extension of city water and sewer mains, if necessary, and require as a condition of said extension that the property owner grant the city a utilities easement if the same are to be placed on the applicant's property, and may further require any additional improvements to be made to insure that access to sewer, water, and electric utilities are provided in a manner which is consistent with the health, safety and welfare of the community. In making such determination the City Recorder or Commission shall be guided by the provisions and specifications applicable to subdivision and partitions under this ordinance, and shall not impose requirements or specifications more stringent than contained herein. The City may require that any required improvements be completed before the final approval of the zoning permit.

### CHAPTER III

#### SITE PLAN AND VIEW CORRIDOR REVIEW

##### Section 10.310. SITE PLAN REVIEW REQUIRED.

For the uses specified in ARTICLE 3, site plan review pursuant to this chapter is required before the final approval of the zoning permit.

##### Section 10.320. SITE PLAN.

The applicant shall submit a site plan and supplementary information with the application showing location and general design of;

1. The proposed structure, and entryways to said structure;
2. Off street parking, if any, and proposed motor vehicular access points to public streets;
3. Pedestrian walkways and pedestrian circulation plan;
4. Information concerning the size, location and design of all water and sewer facilities;
5. Information concerning the storm drainage plan, including elevations and a plan for surface drainage, if surface drainage is proposed;
6. Location information concerning other utilities including power, telephone and television cable;
7. A lighting plan including the location and size of all proposed exterior lights together with any plans to shield the same from adjacent residences; and
8. Such additional information as may be required to be submitted.

##### Section 10.330. COMMISSION REVIEW.

The Commission shall review the proposed site plan for conformance with the following criteria:

1. Whether the plan is consistent with vehicular and pedestrian safety, on adjacent public ways and within the applicant's property. The Commission may require alteration or changes in the site plan if deemed necessary to secure public safety. The Commission may deny a permit in the event the proposed safety, and in the event no changes or modifications are made by the applicant, which eliminate the said hazard;

2. Whether the proposed water and sewer facilities meet city standards and specifications;
3. Whether the particular details of the proposed site development are consistent with the proper functioning and operation of public facilities such as streets, curbs, sidewalks, and utility facilities; and
4. The design minimizes avoidable adverse impacts upon adjacent properties and uses.
5. As part of the site plan review, the commission shall conduct an access review as specified in Section 10.415 and conditions to, or alterations in, the site plan may be imposed which are of the nature specified in and authorized by said section. (Amended by Ord. 523 § 2 (part), 1999)

#### Section 10.340. CONDITIONAL USES.

The Commission may undertake site plan review in conjunction with conditional use permits for noncommercial uses in the event the application raises issues making formal site plan review desirable.

#### Section 10.350. VIEW CORRIDOR REVIEW.

1. Whenever the use regulations of ARTICLE 3 require view corridor review, the City Recorder shall make a threshold determination as to whether full view corridor review is required. A full view corridor review shall be made, and the matter referred to the Commission, if the City Recorder finds:
  - A. That the proposed building or structure will materially impact the views of the Wallowa Mountains from existing residences in the area, or from residences which might be constructed on vacant lots, in the area; and
  - B. After consideration of all factors, including topography and lot and street layout, view corridor review, and imposition of conditions which are possible under this section, might materially reduce or mitigate the impact upon adjacent residences or lots.
2. When a proposed building or structure will materially and negatively affect views of the Wallowa Mountains from an existing residence, or residences, in the area, or from a residence which might be constructed on a vacant lot, in the area, suitable for residential use, said residences are 'affected residences' as that term is used in this section. As used herein, 'views' mean the view from an affected residence, or residences, of the Wallowa Mountains.
3. View corridor review shall be conducted after such notice and opportunity for comment as is provided in Section 10.410. No notice shall be required prior to the City Recorder's threshold determination under subparagraph 1 of this section.
4. In order to reduce the impact of the proposed building or structure upon views of the Wallowa Mountains from affected residences in the area the Commission may require that the development plan be altered in the following respects:
  - A. The height of the proposed building or structure may be limited to one story above the highest elevation immediately adjacent to the proposed building or structure (that is on the uphill side of the proposed building or structure) and the Commission may require alteration of roof height or reduction in the slope of the roof. No limitation on height shall be imposed in the event such height reduction makes it impossible for the applicant to construct a residence with the same square footage as that originally proposed by the applicant.
  - B. The Commission may require that the proposed building or structure, or a building or structure altered in accordance with subparagraph A above, be placed at a location on the site different than that proposed by the applicant. In making such determination, the Commission shall consider any negative impacts upon site development, including pedestrian access, access for offstreet parking, impact upon usable yard areas, impact upon views from the proposed residence, the customary manner of lot development in the area and the extent to which directing alternate building placement would reduce negative impact upon views from affected residences. No alteration of building location shall be directed which makes it impossible for the applicant to construct a residence with the same square footage as that originally proposed by the applicant.
  - C. The Commission may reduce any required building setback if said reduction would permit building placement which materially reduces negative impact upon views from affected residences.
5. In making the determinations under this section, the Commission shall protect the right of the applicant to reasonably use his or her property for uses permitted outright in ARTICLE 3 and shall not require development plans which are materially more expensive or materially different than the customary developments of similarly situated existing lots in the area.

#### Section 10.360. ACCESS REVIEW.

1. An access management review shall be undertaken to review access to city streets in conjunction with all subdivision and partitions, site plan reviews, conditional use permits or, in case of uses not covered by the foregoing, in conjunction with a zoning permit application. Access review to a state highway shall be conducted in accordance with the provisions of subparagraph 9.
2. Such review shall include a review of proposed access points, the number and locations of proposed access points, together with alternatives to the access proposed by the applicant. The object of the review shall be to evaluate the impact of the proposed accesses to the city street upon traffic flow and, where appropriate, to minimize impact to such traffic flow by limiting the number or specifying the location of such access points. The purpose of such review, and the imposition of any limitations, shall be to preserve the effective functional use of each street according to the functional classifications of each.
3. For interior lots, where the sole street access is to a single city street, a minimum of one access point shall normally be allowed. The

City may permit more than one driveway entering a city street, if appropriate utilization of the property so requires.

4. For corner lots abutting a major city street on one side and an intersecting minor city street on the other side, the city may (a) in the case of a commercial use, prohibit driveway access on the major city street and require that driveway access be on the adjacent city streets and (b) in the case of residential uses, where feasible, require that the driveway access be from the adjacent minor city street.
5. Driveway access from a plot or parcel to an adjacent street may be prohibited where the access creates an unreasonable danger to pedestrian or vehicular traffic.
6. The City may impose limitations and restrictions upon access points or methods to reduce negative impact upon the functioning of city streets and where feasible, measures to reduce impacts upon streets shall be imposed in order to preserve the functional classification of a street and to avoid negative impacts upon traffic flow and safety. Prior to imposing any measure to limit access to a street, the City shall consider the property owner's legal rights of access to said street, the impact upon the applicant which will be caused by the proposed access restriction and shall weight these factors against the public benefit secured by restriction of access.
7. An applicant shall not be required to prepare and submit a professional traffic impact study as part of access review in conjunction with a land use application not involving a land use plan or ordinance amendment. For access review in conjunction with a land use ordinance or plan amendment, the City may require the applicant to submit a professional traffic impact study. The change of use provisions of ORS 374.305 and the development review guidelines of the Oregon Highway Plan may also require a professional traffic analysis. The City shall use the best available information as to the impact of a particular proposed use upon traffic volumes on streets and highways serving said use.
8. Measures which may be imposed after access management review include, but are not limited to, restriction of the siting of interchanges, restrictions in the type and amount of access to roadways, and use of physical controls, such as signals and channelization including raised medians, to reduce impact of approach road traffic on the main facility, or any other sign, device or measure.
9. For land use permit applications involving driveway or new street access to a state highway, the City shall coordinate its review of the land use application and site plan with ODOT's access permit review under ORS 374.305. The City shall exercise concurrent access review with ODOT where access is proposed to a state highway, particularly where routed on a city street.
10. Coordinated review under subsection 9 above shall be conducted under the following procedures:
  - (a) Where the applicant is required to file an application with ODOT for an access permit under ORS 374.305, the City shall require that such application be filed prior to final decision on the City's land use application.
  - (b) The City shall notify ODOT of the land use application as soon as is feasible and prior to any decision by the City regarding said land use application.
  - (c) City staff shall consult with responsible access permit officers at ODOT regarding the applicant's requested access and appropriate access points. Review of the City's land use application by the City officer or hearing body empowered to make a decision shall be coordinated with ODOT's review of its application for and ORS 374.305 access permit.
  - (d) ODOT shall be notified of the City's decision on its land use application and of any conditions or provisions regarding access.
11. In reviewing subdivision, site plans or other development plans the City shall seek to provide adequate internal circulation to limit the need for multiple direct accesses to a state highway. (Added by Ord 523 § 1 (part), 1999)

## CHAPTER IV

### ADMINISTRATIVE REVIEW AND PUBLIC HEARINGS

#### Section 10.410. ADMINISTRATIVE NOTICE AND REVIEW PROCEDURES.

1. Prior to conducting a partition, subdivision, site plan or view corridor review, the City shall mail a notice to all property owners within one hundred (100') feet of the proposed development, containing the information required in subparagraph 2 herein. Fourteen (14) days shall be allowed for submission of written comments, from the date of mailing of said notice, prior to the time the Commission undertakes such review.
2. The notice shall contain the following information:
  - A. Provide a fourteen (14) day period for submission of written comments prior to review by the Commission and it shall state the date by which comments must be received by the City;
  - B. That issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing prior to expiration of the comment period and that issue shall be raised with sufficient specificity to enable the City to respond to the issue;
  - C. The applicable criteria governing the review shall be listed by citation to the relevant sections of this ordinance or Land Use Plan;
  - D. The street address or other easily understood geographical reference or description of the property;
  - E. The date, time and place that comments are due;
  - F. That copies of all evidence relied upon by the applicant are available for review and that copies can be obtained at cost;
  - G. The notice shall state that the City Recorder is the City's contact person and shall provide the name, address and phone number of the City Recorder and
  - H. The notice shall briefly describe the review process provided by this ordinance.

3. The minor partition, site plan review or view corridor review shall not be conducted until such time as time for submission of written comments has expired.

#### Section 10.415. NOTICE TO PUBLIC AGENCIES MANAGING TRANSPORTATION FACILITIES.

1. The City shall provide notice to the Oregon Department of Transportation (ODOT) of land use applications which are adjacent to Highway 3 or Highway 82 and notice of other applications which would have a material impact upon Highway 82 or Highway 3 due to access to a highway through a city street or other reason. The City shall provide ODOT an opportunity for review and comment prior to making a decision on such applications.
2. The City shall provide notice to Wallowa County of land use applications which are adjacent to a county road or which, due to access to the county road through a city street or otherwise, would have a material impact upon said county road and shall provide an opportunity for review and comment to Wallowa County prior to a decision on such applications.
3. The Oregon Department of Transportation, Aeronautics Division shall be provided notice of applications within airport noise corridors and imaginary surfaces which affect airport operations and shall be provided an opportunity for review and comment prior to a decision on such an application.
4. Prior to any amendments to land use designations, densities and design standards which might affect the functions, capacities and levels of service of transportation facilities identified in the Transportation System Plan, the City shall give prior notice thereof to (a) ODOT if a state highway is affected, (b) Wallowa County, if a county road is affected and (c) the Aeronautics Division if the Enterprise Municipal Airport is affected. Any agency so notified shall have an opportunity for review and comment, prior to City action on said amendments and the City shall coordinate its review thereof with that of said agency. (Added by Ord. 523 § 1 (part), 1999)

#### Section 10.420. NOTICE OF DECISION.

Notice of decision of the partition review, subdivision review, site plan review or view corridor review shall be mailed to the applicant and all parties who have submitted written comments or whom have appeared and submitted oral comments at the time of the Commission and/or Council review. The notice of decision shall include an explanation of appeal rights.

#### Section 10.430. PUBLIC HEARINGS.

1. A public hearing is required prior to taking action on an application for a conditional use permit, variance, expansion or alteration of a nonconforming use, zoning map amendments, amendments to the text of this ordinance, or upon appeals from decisions of the City Recorder or Superintendent.
2. Each notice of a hearing authorized by this ordinance shall be published in a newspaper of general circulation in the city at least ten (10) days prior to the date of the hearing.
3. In addition, prior to all of the hearings specified in subparagraph 1 of this section, except a text amendment to the City of Enterprise Land Use Ordinance, notice of hearing shall be mailed to all property owners within two hundred fifty (250') feet of the property for which the permit or zoning map amendment has been requested. The notice of hearing shall be mailed at least twenty (20) days prior to the date of the hearing.
4. Failure of a person to receive the notice prescribed in this section shall not impair the validity of the hearing.
5. The Commission or Council may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the application being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

#### Section 10.440. CONTENTS OF NOTICE.

The notice of hearing shall contain the following information:

1. The nature of the application and the proposed use or uses which could be authorized;
2. The applicable criteria from this ordinance and the Land Use Plan which apply to the application;
3. The street address or other easily understood geographical reference or description of the property;
4. The date, time and location of the public hearing;
5. A statement that the failure of an issue to be raised in a hearing, in person or by letter or the failure to provide statements or evidence sufficient to afford the City an opportunity to respond on the issue will preclude appeal to the Land Use Board of Appeals, based upon that issue;
6. That the City Recorder is the contact person and the telephone number where the City Recorder may be contacted and additional information obtained;
7. That a copy of the application and all documents and evidence submitted by or on behalf of the applicant, together with the applicable criteria, are available for inspection at the City Recorder's office at no cost and that copies thereof will be provided at a reasonable cost; and
8. An explanation of the requirements for submission of testimony and the procedure for the conduct of hearings.

### Section 10.450. CONDUCT OF HEARINGS.

The following rules apply to all public hearings conducted pursuant to this ordinance:

1. All staff reports used at the hearing shall be available at least seven days prior to the hearing.
2. At the commencement of a hearing, a statement should be made to those in attendance that:
  - A. States all applicable substantiative criteria;
  - B. States that testimony and evidence must be directed toward the criteria described or to other criteria in this ordinance or the Land Use Plan which the person believes to apply; and
  - C. States that failure to raise an issue accompanied by statements of evidence sufficient to afford the city and the parties an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals, based upon that issue.
3. At the evidentiary hearing, the order of presentation of evidence and testimony shall be as follows:
  - A. All written evidence and letters shall be entered into the record and either read in full or copies thereof made available to all interested parties attending the hearing.
  - B. Thereafter the applicant shall be allowed to submit all testimony and evidence in support of the application. Next, all other persons or parties in support of the application shall be allowed to present testimony or other evidence.
  - C. After the completion of testimony from all proponents all persons opposing the application shall be allowed to testify or present other evidence.
  - D. The applicant shall, after the close of the opponent's testimony, be allowed to present testimony, or other evidence, in rebuttal to the opponent's testimony or evidence.
4. No testimony or evidence, except rebuttal testimony or evidence, shall be received without giving the opposing parties an opportunity to rebut the same.
5. Prior to the conclusion of the initial evidentiary hearing, any participating person may request an opportunity to present additional evidence or testimony regarding such application. The commission or council shall grant such request by either, a) continuing the public hearing or, b) leaving the record open for a specified period for submission of additional written evidence.
6. If a continuance of a public hearing is granted pursuant to subparagraph 5 of this section, the hearing shall be continued to a date, place, and time occurring at least seven (7) days from the date of the initial evidentiary hearing. At the continued hearing an opportunity shall be provided for participating persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of that hearing, that the record be left open for at least seven (7) days to submit additional evidence or testimony for the purpose of responding to the new written evidence.
7. If, pursuant to subparagraph 5 herein, the record is left open for submission of additional evidence, the record should be left open for a minimum of seven (7) days. In the event of submission of additional evidence, any participating person may file a written request, during the period the record is open, for an opportunity to respond to such new evidence. In such event the Commission or Council shall reopen the record to admit new evidence and testimony and any persons participating may then raise new evidence or new issues relating to the application.
8. Unless waived by the applicant, the City shall allow the applicant at least seven (7) days after the record is closed to all other parties, in order to submit final written arguments in support of the application. The applicants final submittal shall be considered part of the record but shall not include any new evidence.

### Section 10.460. NOTICE OF DECISION.

The City Recorder shall mail a notice of decision, on any matter which is subject to a public hearing, to the applicant and to all participating persons to the hearing. When the Commission acts in a recommending capacity, by making a formal recommendation to the Council, no notice of the Commission's recommendation is required. The notice of decision shall include a statement of the applicant's and participating person's appeal rights.

## CHAPTER V

### APPEALS

#### Section 10.510. APPEALS.

A decision or ruling of the Superintendent or City Recorder, regarding a requirement of this ordinance or a permit required by this ordinance, may be appealed to the Commission and a decision or ruling of the Commission may be appealed to the Council, by filing a Notice of Appeal with the City Recorder within ten (10) days after the date of the decision or ruling. Notice of appeal shall state the nature of the decision or ruling appealed from and need not contain any specific grounds for appeal.

#### Section 10.520. APPEAL PROCEDURES.

1. All appeals from a decision or ruling of the City Recorder or Superintendent will be reviewed de novo (anew) by the Commission after public hearing; notice of such public hearing shall be given in accordance with Section 10.430.
2. In the event a decision or ruling of the Commission is appealed to the Council and no public hearing was held before the

Commission, the Council shall review the matter de novo after public hearing; notice of said public hearing shall be given in accordance with requirements of, Section 10.430. In all other cases the Council may hear the appeal without public hearing based upon the record of the Commission, or at its election may hold a new public hearing, giving notice required by Section 10.430 and review the appeal de novo. When an appeal is scheduled for public hearing or review without public hearing, the applicant, all appellants, and all persons requesting notice, shall be mailed a written notice containing the date, time, and place of the meeting, for which review of the appeal is scheduled.

3. In review proceedings conducted on the record by the Commission, the Council shall permit the applicant, appellants, and any other interested persons to make a statement in support of or in opposition to the appeal; all such statements will not be evidence and the Council shall make its decision or ruling based upon the record of the Commission. When the reviewing body holds a new public hearing and reviews the matter de novo, any interested persons may testify either for or against the application, whether a party to the appeal or not.

4. The reviewing body, whether the Commission or Council, may affirm, reverse, or modify the decision or ruling of the city officer or the body appealed from, and have all discretion in granting or denying the permit or imposing conditions on the permit, conferred upon the body or city officer initially charged with issuance of the permit.

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## City Municipal Code Results

### ARTICLE 11

#### AMENDMENTS

##### Section 11.010. AUTHORIZATION TO INITIATE AMENDMENTS.

An amendment to the text of this ordinance or to the zoning map may be initiated by the Council, Commission or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing a statement of purpose or application with the City Recorder.

##### Section 11.020. PUBLIC HEARINGS ON AMENDMENTS.

The Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the amendment is proposed and shall recommend to the Council approval, disapproval or modified approval of the proposed amendment. The Council may hold its own public hearing, if considered necessary.

##### Section 11.030. RECORD OF AMENDMENTS.

The final decision or ruling regarding an amendment to this ordinance shall be made by the Council, based on recommendations from the Commission, and shall be maintained as an amendment to the text or zoning map of this land use ordinance. This information is available in the office of the City Recorder.

##### Section 11.040. LIMITATION UPON REAPPLICATION.

In the event hearings on a proposed land use ordinance or zoning map amendment are initiated by application of a property owner and a final decision or ruling denying the amendment is made, then an identical or similar amendment of the ordinance or zoning map may not be initiated by application of a property owner within one (1) year of the final decision or ruling denying said application for amendment. The Commission may decide whether a hearing on a second application for amendment of the land use ordinance or zoning map should be barred due to similarity in intent and purpose to an application for amendment to the land use ordinance, which was denied within one (1) year of filing of the second application for amendment.

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## City Municipal Code Results

### ARTICLE 12

#### GENERAL PROVISIONS

##### Section 12.010. INTERPRETATION.

Where the conditions imposed by a provision of this ordinance are less restrictive than comparable conditions imposed by any other provisions of this ordinance or any other ordinance, the provisions which are more restrictive shall govern.

##### Section 12.020. ENFORCEMENT.

1. **CONTRACTOR'S DUTIES.** Any person undertaking construction work in the city as an independent contractor shall, before commencing work, take reasonable steps to ascertain that all approvals required under this ordinance have been procured.

2. **PENALTIES FOR VIOLATION.** A person who violates or fails to comply with the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not more than Five Hundred and No/100ths (\$500.00) dollars or by imprisonment for not more than one hundred (100) days or both. A violation of this ordinance shall be considered a separate offense for each day the violation continues. For the purposes of this subparagraph, a 'person' may include both a person on whose property construction or other work is performed in violation of this ordinance and the building contractor who undertook the same, together with any other persons who knowingly performed work which is in violation of this ordinance.

3. **CIVIL REMEDIES.** In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used or land is, or is proposed to be, used in violation of this ordinance, the building or land thus in violation shall constitute a nuisance, and the City may, in addition to other remedies that are legally available for enforcing this ordinance, including the criminal remedies specified in subparagraph 2 above, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.

##### 4. STOP WORK ORDER.

A. The Superintendent is hereby empowered to post a stop work order in the form specified herein on any premises on which construction, repairs or other activities are being undertaken without approval required by this ordinance or which are being undertaken in violation of the terms of the approval, given by the City or are otherwise being undertaken in violation of the terms of this ordinance. The stop work order shall state that the work being performed is in violation of this ordinance, that further work is prohibited by law and that work performed in violation of the stop work order may result in a fine and/or imprisonment. In the event necessary arrangements are made by the owner and/or contractor to lawfully proceed with work, the stop work order shall be rescinded by the Superintendent.

B. Any contractor, or owner of property on which a stop work order has been posted, who causes further unlawful work to be done on said premises or property after lawful posting of a stop work order, or any other person who performs work on said premises knowing that a stop work order has been so posted, shall be punished by a fine of not more than Five Hundred and No/100ths (\$500.00) dollars and/or imprisonment for not more than one hundred (100) days, or both. A violation of this section shall be considered a separate offense for day each the violation continues and shall be considered a separate and additional offense to those covered by subparagraph 2 above.

5. **ENFORCEMENT.** The Superintendent may make a report of any violation of the terms and provisions of the ordinance to the Chief of Police of the City of Enterprise. The Chief of Police may issue a citation or other accusatory instrument sufficient in form and content to charge the person or persons with violation of any applicable terms and provisions of this ordinance.

##### Section 12.030. SEVERABILITY.

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



Section 12.040. APPLICABILITY.

This ordinance shall be applicable to all lands within the corporate limits of the City of Enterprise, Wallowa County, Oregon.

Section 12.050. REPEAL.

Ordinance numbers 396, 432, 440, 468, 472, 495, and 498 are hereby repealed, said repealer to be effective thirty (30) days after the enactment of this ordinance by the Council of the City of Enterprise.

Section 12.060. EFFECTIVE DATE.

This ordinance shall be in full force and effect thirty (30) days after adoption by the Council.

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