



CITY OF HARRISBURG  
**ZONING ORDINANCE**



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## ORDINANCE NO. 765

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF HARRISBURG; PROVIDING A PENALTY; REPEALING ORDINANCE NO. 386, 396, 403, 408, 450, 468, 477, 483, 484, 485, 487, 503, 506, 509, 543, 548, 558, 559, 561, 569, 577, 579, 598, 619, 631, 644, 645, 646, 647, 649, 650, 702, 710, AND 718; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council and the Planning Commission of the City of Harrisburg has completed the Comprehensive Plan Periodic Review, and

WHEREAS, it has been determined that amendments to the Zoning Ordinance are necessary to keep the Ordinance current with Oregon State Statutes and the needs of the City of Harrisburg,

NOW THEREFORE, THE CITY OF HARRISBURG ORDAINS AS FOLLOWS:

### ARTICLE I

#### Purpose and Definitions

Section 1.010. Title. This ordinance shall be known as the "Zoning Ordinance of the City of Harrisburg, Oregon."

Section 1.020. Purpose. The several purposes of this ordinance are: to encourage the most appropriate use of land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide for adequate light and air; to lessen congestion; to encourage the orderly growth of the city; to prevent undue concentration of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage and transportation; and in general to promote public health, safety, convenience and general welfare.

Section 1.030. Definitions. As used in this ordinance, the masculine includes the feminine and neuter; and the singular includes the plural. The following words and phrases, unless the text otherwise requires, shall mean:

Accessory use. A use incidental and subordinate to the main use of the property and which is located on the same lot with the main use.

Alley. A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting another street.

Boarding, lodging, or rooming house. A building where lodging with or without meals are provided for compensation for not less than 5 or more than 10 guests.

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

City. The city of Harrisburg, Oregon.

Commission. The city planning commission.

Day. For the purposes of this ordinance, day shall mean a calendar day.

Day Care Facility. A facility that provides day care to children, including a day nursery, nursery school group or similar unit operating under any name, but not including:

- a. A facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day;
- b. A facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion;
- c. A facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.
- d. A facility operated by a school district political subdivision of this state or a governmental agency; and
- e. A residential facility licensed under ORS 443.400 to 443.825.

De Novo Hearing. A hearing by the review body as if the request had not been previously heard and as if no decision had been rendered, except that all testimony, evidence, and other material from the record of the previous consideration may be included in the record of the review.

Duplex Lot Partitioning. A unit of land with at least 9,000 square feet in area, and able to conform to the R-1 or R-2 zones.

Dwelling, multiple-family. A building containing two or more dwelling units.

Dwelling, single-family. A detached building containing one dwelling unit.

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

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

Family Day Care Provider. A day care provider who regularly provides day care in the family living quarters of the provider's home to fewer than 13 children, including children of the provider, regardless of full or part-time status.

Fence, sight obscuring. A fence or evergreen planting arranged in such a way as to obstruct vision.

Floor area. The area included in surrounding walls of a building or portion thereof, exclusive of vent shafts and courts.

Front Yard Planting Area. A minimum planting area of three feet in width, and or, a maximum of three feet in height. Plants are to be maintained, as to height and width, by the property owner.

Garage, private. An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

Garage, public. A building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

Grade (ground level). The average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five feet of a sidewalk, the aboveground level should be measured at the sidewalk.

Hard surfaced. Concrete or asphalt; or, if approved by the city, alternatives such as brick or paving stones.



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

**High Security Area.** A designated area needed by business or industry to protect equipment or materials on the premises from any exterior intrusion.

**Hospital.** An establishment, which provides sleeping, and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.

**Kennel.** A lot or building in which four or more dogs, cats or animals at least four months of age are kept commercially for board, propagation, training or sale.

**Landscaping.** Landscaping includes grasses, trees, shrubs, and/or flowers in combination with landscaping bark or other suitable ground covering.

**Lot.** A parcel or tract of land.

**Lot area.** The total horizontal area within the lot lines of a lot.

**Lot, corner.** A lot abutting on 2 intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.

**Lot, depth.** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

**Lot, interior.** A lot other than a corner lot.

**Lot line.** The property line bordering a lot.

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

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

**Lot line, side.** Any lot line, not a front or rear lot line.

**Manufactured dwelling (MD).** Either a residential trailer, a mobile home or a manufactured home.

**Manufactured dwelling park (MDP).** Any place where more than six manufactured dwellings are parked within 500 feet of one another on a lot, tract or parcel of land under the same ownership.

**Manufactured home.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, and that was constructed for residential purposes in accordance with federal manufactured housing construction and safety standard regulations in effect at the time of construction. A manufactured home is a home built on or after June 15, 1976 to the standards and requirements of the National Home Construction and Safety Standards Act of 1974 as those standards are or may be amended. Manufactured home does not mean any building or structure subject to the Structural Specialty Codes adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreation vehicle by the manufacturer.

**Mixed Use.** A use of property within a commercial zone that may include using up to 40% of the ground floor for residential purposes. Residential use may include up to 100% of the property above the ground floor. Any change in use must be reported to the City and shall be reviewed for compliance with building code, off-street parking and off-street loading requirements. [Added by the adoption of Ordinance No. 837, November 10, 2005]

**Mobile dwelling.** A structure constructed for movement on public highways, that has sleeping, cooking and plumbing facilities, is intended for human occupancy, is not self propelled, and that was constructed between January 1, 1962 and June 15, 1976, and

met the construction requirements of Oregon mobile home law in effect at the time of construction.

New construction. A new structure constructed for the purpose of human occupancy, employment, recreation, etc., including placement of a Manufactured Dwelling, or other similar dwellings.

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.

Parking space. A rectangular area not less than 20 feet long and 8 1/2 feet wide, together with maneuvering and access space required for a standard American automobile to park with the rectangle.

Person. Every natural person, firm, partnership, association or corporation.

Recreation vehicle. A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational, seasonal, or temporary purposes, and has a gross floor space of less than 400 square feet. "Recreation vehicle" includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers and any vehicle converted for use or partial use as a recreational vehicle. The unit shall be identified as a recreational vehicle by the manufacturer or converter.

Residential Facility. A facility licensed under ORS 443.400 to 443.460, for 6 to 15 physically or mentally handicapped persons or elderly persons who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need to be related to each other or to any resident of the residential facility.

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

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

Screening. See "Fence, sight obscuring."

Sign. A presentation or representation, other than a house number, which by words, letters, figures, designs, pictures or colors publicly displayed gives notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation or a request for aid or other type of advertising. This includes the surface upon which the presentation or representation is displayed. Each display surface of a sign shall be considered to be a sign.

Street. The entire width between the boundary lines of every travel way which provides for public use for the purpose of vehicular and pedestrian traffic and including the terms "road", "highway", "lane", "place", "avenue", "alley", or other similar designations.

Structure. That which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.

Structural alteration. A change to the supporting members of a structure, including the supporting parts of foundations, bearing walls or partitions, columns, beams, girders or the roof.

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

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

Yard, front. A yard between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of the building.

Yard, rear. A yard extending between side lot lines and measured horizontally at right angles to the rear lot line, from the rear lot line to the nearest point of the building.

Yard, side. A yard between the front and rear yards measured horizontally and at right angles to the side lot line, from the side lot line to the nearest point of the building.

Zoning official. An individual or committee designated by the City of Harrisburg, with the duties and authority to enforce the provisions of this ordinance.

**ARTICLE II**  
**Basic Provisions**

Section 2.010. Compliance with Ordinance Provisions. No structure or premises shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this ordinance.

Section 2.020. Classification of Zones and Special Purposes Districts. For the purpose of this ordinance, the city is divided into zones and special districts as follows:

<u>Zone or District</u>	<u>Abbreviated Designation</u>
Single-Family Residential Zone	R-1
Multiple-Family Residential	R-2
Commercial Zone	C-1
Commercial Zone.....	C-2
Historic District	H-1
Limited Industrial Zone	M-1
General Industrial Zone	M-2
Open Land Use Zone	OLU
Greenway Special Purpose District	GW
Safe Harbor Zone	SH
Neighborhood Commercial Zone	NC

Section 2.030. Zoning Map.

1. The location and boundaries of the zones and special purpose districts designated in Section 2.020 are hereby established as shown on the zoning map. The effective date of the zoning is the date shown on the zoning map. The designated map shall be signed by the city recorder and shall hereafter be referred to as the zoning map. The City of Harrisburg Zoning Map adopted in 1980, and all amendments thereto are hereby repealed.
2. The signed copy of the zoning map shall be maintained without change on file in the office of the recorder and is hereby made a part of this ordinance.

Section 2.040. Zone Boundaries. Unless otherwise specified, zone boundaries are property lines, the centerline of streets, alleys, and railroad right-of-way, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two zones, the entire parcel shall be placed in a zone that accounts for the greater area of the lot by the adjustment of the boundaries, provided the boundary

a distance of less than 20 feet. If the adjustment involves a distance of more than 20 feet, the procedure for a zone change shall be followed.

Section 2.050. Zoning of Annexed Areas. Upon annexation to the city, all areas shall be provided with a zoning designation consistent with the comprehensive plan designation of the area.

Section 2.060. Special Purpose Districts. A special purpose district is an overlay district, which may be combined with any portion of any zone as appropriate to the purpose for the district. The regulations of a special purpose district consist of additional sections of this ordinance and additional standards. These shall be supplementary to the regulations of the underlying zone and the regulations of the special purpose district and the zone shall all apply.

### **ARTICLE III**

#### Single-Family Residential Zone R-1.

Section 3.005. Purpose. This zone is intended to provide low density residential areas, together with needed urban services; to provide opportunities to upgrade the housing stock within the city; and to maintain stable residential neighborhoods.

Section 3.006. Required Standards for all new Dwellings in the R-1 Zone. All new dwellings in the R-1 Zone are required to include the following:

1. A garage or carport.
  - a. The garage or carport shall be installed prior to occupancy.
  - b. The garage or carport shall have exterior siding and roofing that, in color, material and appearance, is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or that is comparable to the predominant materials used on surrounding dwellings as determined by the local zoning official.
  - c. The garage or carport shall be not less than 18 feet long and not less than 12 feet wide.
  - d. The floor of the garage or carport shall be concrete, or another hard surfaced material that is approved by the Planning Commission.

[Subsection (2) added by Ordinance No. 780 adopted February 28, 2001)

2. A hard surfaced parking pad, measuring not less than 18 feet long and ten feet wide, in front of the garage or carport that will accommodate the parking of the same number of vehicles as the garage or carport.

3. If the street is hard surfaced, a hard surfaced driveway from the street to the parking pad, unless the driveway is more than 100 feet in length. The first 100 feet of any new primary driveway, measured from where the driveway intersects with the public street, shall be hard surfaced. [Subsection (3) amended by Ordinance No., 816, adopted July 14, 2004.]

4. A driveway that is more than 100 feet in length shall be capable of supporting emergency vehicles weighing up to 50,000 pounds, and shall be free of obstacles that would prevent emergency vehicles from using the driveway. [Subsection (4) added by Ordinance No. 816 adopted July 14, 2004]

5. Eaves that extend a minimum of 12" from the intersection of the roof and the exterior walls.

6. Public improvements, including curbs, gutters, sidewalks and a paved street adjoining the property shall be installed in accordance with City Standard Specifications prior to occupancy unless an extension is granted in writing by the City. Prior to approving an extension, the City may require the responsible party to sign a Waiver of Remonstrance.

7. Appropriate landscaping, that does not include weeds or bare ground, shall be installed within one year of occupancy.

8. At least one of the following design features:

- |                     |   |
|---------------------|---|
| 1. dormers          | 8. off-sets on building face or roof (min. 12") |
| 2. cupola           | 9. bay or bow window                            |
| 3. window shutters  | 10. a roof pitch greater than nominal 3/12      |
| 4. gables           | 11. covered porch or entry                      |
| 5. pillars or posts | 12. horizontal lap siding                       |
| 6. tile roof        | 13. masonry features (other than foundation)    |

7. recessed entry

9. A receptacle for the delivery of mail by the United States Postal Service ("U.S.P.S.") shall be installed prior to occupancy unless (1) an extension is granted in writing by the City, or (2) the person who will be occupying the dwelling provides evidence to the City that a Post Office box has been obtained. The receptacle shall be of a design approved by the U.S.P.S. and it shall be placed at a location approved by the U.S.P.S. and the City.

[Section 3.006 amended by Ordinance No. 795, adopted by the City Council on April 24, 2002] [Section 3.007 amended and moved by Ordinance No. 836, November 9<sup>th</sup>, 2005][Section 3.006.6 amended, and Section 3.006.9 added by Ordinance No. 847, adopted on October 11<sup>th</sup>, 2006, and effective November 11<sup>th</sup>, 2006]

Section 3.010. Uses Permitted Outright. In an R-1 Zone the following uses and their accessory uses are permitted outright:

1. One single-family dwelling.
2. One Residential home per lot.
3. One family day care provider per lot.
4. Home occupation when the provisions of the Ordinance regulating Business Licenses are complied with.
5. One manufactured dwelling, per lot, placed outside of a manufactured dwelling park. (See Section 5.320 for standards.)
6. Accessory structures normal to a residential environment.

Section 3.020. Conditional Uses Permitted. In an R-1 zone, the following uses and their accessory uses are permitted when authorized in accordance with Article VII of this ordinance:

1. Churches, synagogues and related facilities.
2. Golf course and other open land recreational uses, excluding intensive commercial amusement use such as "pitch and putt" golf course, driving range, automobile race track or amusement park.
3. Governmental structure or land use including, but not limited to, a public park, playground, recreation building, fire station, library or museum.
4. Community building.
5. Hospital, sanitarium, rest home, homes for the aged, nursing home, convalescent home or residential facility.
6. School: nursery, primary, elementary, junior high or senior high.
7. Day care facility.

8. Public utility facility.
9. Temporary medical hardship manufactured home, on a lot with a permanent residential structure. (See Section 7.130 for standards.)
10. Duplex lot partitioning when the provisions of Section 3.095 are met.
11. Neighborhood commercial center.
12. Neighborhood Community Development. (See Section 3.190 and 3.200 for standards.)

Section 3.030. Signs. Refer to Section 5.400 to 5.430 for regulations.

Section 3.040. Lot Size and Frontage. Except as provided in Section 3.095 or 3.190, in an R-1 zone:

1. The minimum lot size shall be 7,000 square feet.
2. The minimum lot width at the front building line shall be 60 feet; except on a cul-de-sac the minimum lot width at the front building line shall be 50 feet.
3. The minimum lot depth shall be 80 feet.
4. A lot shall have a minimum of 50 feet of frontage along a public right-of-way, except on a cul-de-sac where a lot shall have a minimum of 35 feet of frontage along a public right-of-way.

[Section 3.040 amended by Ordinance No. 859, effective July 27<sup>th</sup>, 2007]

Section 3.050. Setback Requirements. Except as provided in Section 3.190, 5.010 and 5.100, in an R-1 zone the yards shall be as follows:

1. The front yard setback shall be a minimum of 15 feet, except that a garage or carport shall be a minimum of 20 feet.
2. Each side yard shall be a minimum of five feet, except that in the case of a corner lot, the side abutting a street shall be a minimum of 15 feet.
3. The rear yard setback shall be a minimum of 20 feet, except that:
  - a. In the case of a corner lot, the rear yard for an accessory building may be a minimum of 10 feet, and
  - b. In the case of a lot on the bulb portion of a cul-de-sac, the rear yard setback shall average a minimum of 20 feet. The average of the rear yard setback shall be a measurement of the average of the closest line from the rear of the structure to the rear property line and the farthest line from the rear of the structure to the rear property line.
  - c. The rear yard setback for an uncovered deck, no part of which is more than 30 inches above the ground, shall be five feet.

[This Section amended by Ordinance No. 816 adopted July 14, 2004] (Further amended by Ordinance No. 830, adopted May 11, 2005) [Section 3.050 (1) amended by Ordinance No. 842, adopted April 26, 2006]

Section 3.060. Height of Buildings. In an R-1 zone no building shall exceed a height of 35 feet measured from grade.

Section 3.070. Lot Coverage. Except as provided in Section 3.190, in an R-1 zone buildings shall not occupy more than 50 percent of the lot area.

Section 3.095. Duplex Lot Partitioning Requirements:

1. The duplex proposal is only for a corner lot.
2. The duplex is proposed as part of a partition or subdivision proposal

3. The duplex common wall coincides exactly with the property line separating two legal units of land.

4. Each duplex parcel will have the following minimum standards:
  - a. Minimum lot size of 4,500 square feet.
  - b. Minimum street frontage of 45 feet.
  - c. Other minimum standards, of the R-1 Zone, shall be maintained, except for lot depth.
5. Each duplex unit will have independent utilities, appropriate easements, and addresses.
6. Each duplex unit shall have an agreement to include the responsibilities and liabilities of the parties with respect to common areas of the duplex; exterior maintenance and color; and in a form acceptable to the City Attorney and recorded by the applicant after acceptance by the City.

#### Multiple-Family Residential Zone R-2.

##### Section 3.105. Required Standards for all New Dwellings in R-2 Zones.

1. A garage or carport.
  - (a) The garage or carport shall be installed prior to occupancy.
  - (b) The garage or carport floor shall be concrete, or other surface approved by the City if:
    - (1) There is more than one single family residence on the property, or
    - (2) The garage or carport is attached to a residence, or
    - (3) If it is on property used for a single family residence and there is no attached garage or carport, then at least one unattached garage or carport shall have a floor that is concrete or other surface approved by the City.
2. All parking spaces and driveways shall be hard surfaced.
3. Eaves that extend a minimum of 12" from the intersection of the roof and the exterior walls.
4. Public improvements, including curbs, gutters, sidewalks and a paved street adjoining the property shall be installed in accordance with City Standard Specifications prior to occupancy unless an extension is granted in writing by the City. Prior to approving an extension, the City may require the responsible party to sign a Waiver of Remonstrance.
5. Appropriate landscaping, other than weeds or bare ground, shall be installed within one year of occupancy.
6. Multiple-family dwellings shall have appropriate fire prevention systems installed.
7. High-density residential development can include up to 17 dwelling units per net acre (not including right-of-way).
8. A receptacle for the delivery of mail by the United States Postal Service ("U.S. P.S.") shall be installed prior to occupancy unless (1) an extension is granted in writing by the City, or (2) the person who will be occupying the dwelling provides evidence to the City that a Post Office box has been obtained. The receptacle shall be of a design approved by the U.S.P.S. and it shall be placed at a location approved by the U.S.P.S. and the City.

[Section 3.105 amended by Ordinance No. 780 adopted February 28, 2001.][Section 3.105 (4) amended and Section 3.105 (8) added by Ordinance No. 847, adopted October 11<sup>th</sup>, 2006, and effective November 11<sup>th</sup>, 2006]



Section 3.110. Uses Permitted Out Right. In an R-2 zone the following uses and their accessory uses are permitted outright:

1. A use permitted outright in an R-1 zone.
2. Multiple-family dwelling with three or more dwelling units be subject to the site plan review standards and procedures of Sections 5.500 to 5.560.
3. Home occupation, when the provisions of the Ordinance regulating Business Licenses are complied with.
4. One boarding, lodging, or rooming house, per lot, subject to the standards and procedures of Sections 5.500 to 5.560.
5. One residential facility, per lot.
6. Manufactured dwelling park, subject to the standards and procedures of Section 5.310 and 5.550.

Section 3.120. Conditional Uses Permitted. In an R-2 zone, the following uses and their accessory uses are permitted when authorized in accordance with Article VII (Section 7.010 through 7.060) of this ordinance.

1. A conditional use permitted in an R-1 zone, except that a residential facility is permitted outright in an R-2 zone.
2. Professional offices for doctors, dentists, attorneys, and accountants, providing the property abuts or is across the street or alley from a C-1 zone.
3. Medical facility or clinic, except veterinarian, provided that the entire development is designed, constructed and operated as a single unit, and the property abuts or is across the street or alley from a C-1 zone.
4. Duplex lot partitioning when the provisions of Section 3.180 are met.

Section 3.130. Signs. Refer to Section 5.400 to 5.430 for standards.

Section 3.140. Lot Size and Frontage. Except as provided in Section 3.180 or 3.190, in an R-2 zone:

1. The minimum lot size shall be 7,000 square feet.
2. The minimum lot width at the front building line shall be 60 feet; except on a cul-de-sac the minimum lot width at the front building line shall be 50 feet.
3. The minimum lot depth shall be 80 feet.
4. A lot shall have a minimum of 50 feet of frontage along a public right-of-way, except on a cul-de-sac where a lot shall have a minimum of 35 feet of frontage along a public right-of-way.

[Amended by Ordinance No. 859, effective July 27, 2007]

Section 3.150. Setback Requirements. Except as provided in Section 3.190, 5.010 and 5.100, in an R-2 zone the yards shall be as follows:

1. The front yard setback shall be a minimum of 15 feet, except that a garage or carport shall be a minimum of 20 feet.
2. Each side yard shall be a minimum of 5 feet, except that in the case of a corner lot, the side abutting a street shall be a minimum of 15 feet.
3. The rear yard shall be a minimum of 20 feet, except that:
  - a. In the case of a corner lot the rear yard setback for an accessory building shall be a minimum of ten feet, and.
  - b. In the case of a lot on the bulb portion of a cul-de-sac, the rear yard setback shall average a minimum of 20 feet. The average of the rear yard setback shall be a measurement of the average of the closest line from the rear of the structure

to the rear property line and the farthest line from the rear of the structure to the rear property line.

c. The rear yard setback for an uncovered deck, no part of which is more than 30 inches above the ground, shall be five feet.

[Section 3.150 (1) amended by Ordinance No. 842, adopted April 26, 2006]

[Section 3.150 (3) amended by Ordinance No. 816, adopted July 14, 2004]

(Section 3.150(c) amended by Ordinance No. 830, adopted May 11, 2005)

Section 3.160. Height of Buildings. In an R-2 zone no building shall exceed a height of 35 feet measured from grade.

Section 3.170. Lot Coverage. Except as provided in Section 3.190, in an R-2 zone buildings shall not occupy more than 60 percent of the lot area.

Section 3.180. Duplex Lot Partitioning Requirements:

1. The duplex is proposed as part of a partition or subdivision proposal
2. The duplex common wall coincides exactly with the property line separating two legal units of land.
3. Each duplex parcel will have the following minimum standards:
  - a. Minimum lot size of 4,500 square feet.
  - b. Minimum street frontage of 45 feet.
  - c. Other minimum standards, of the R-2 Zone, shall be maintained, except for lot depth.
4. Each duplex unit will have independent utilities, appropriate easements, and addresses.
5. Each duplex unit shall have an agreement to include the responsibilities and liabilities of the parties with respect to common areas of the duplex; and exterior maintenance and color; in a form acceptable to the City Attorney and recorded by the applicant, after acceptance by the City.

Neighborhood Community Development.

Section 3.190. Design flexibility allowed. On a residential development of ten or more dwellings, the city shall have the ability to reduce the normal requirements for lot size, setbacks, and lot coverage, but not building code requirements, if a site plan is provided that compensates for a reduction of any of these normal requirements by providing common space, recreational facilities or other amenities.

Section 3.200. Criteria for Approval. A neighborhood community development may be approved by the city, in an R-1 and R-2 Zone, when the provisions of Article VII of this Ordinance are met, and if each of the following criteria is met:

1. Any reduction of normal requirements will not adversely affect vehicular and emergency access.
2. The design of the development shall be compatible with surrounding uses.
3. The design of the development shall not adversely affect public utilities.
4. The addition of common space, recreational facilities, or other amenities is of sufficient aesthetic, social or financial value to the residents of the development to compensate for the reduction of normal requirements.
5. The city shall be satisfied that adequate provision has been made to provide for the design, construction, operation (if applicable), and maintenance of the common space, recreational facilities or other amenities.

6. The neighborhood community development will be consistent with the provisions of the city's comprehensive and transportation plan.

Commercial Zone C-1.

Section 3.210. Uses Permitted. In a C-1 zone the following uses and their accessory uses are permitted, provided that the procedures of Sections 5.500 to 5.100 are complied with when appropriate.

1. A use permitted outright in an R-1 and R-2 zone.
2. Amusement enterprise, including pool hall, bowling, dancing hall, skating rink.
3. Auditorium, exhibition hall, or other public assembly room.
4. Automobile services.
5. Automobile car wash.
6. Bakery.
7. Bank, loan company or similar financial institution
8. Barber shop.
9. Beauty shop.
10. Bicycle shop.
11. Blueprinting, photostatting or other reproduction.
12. Book or stationery store or news stand.
13. Bookbindery.
14. Building supply with no outside storage.
15. Bus station.
16. Business machines, retail and service.
17. Catering establishment.
18. Clinic, except animal clinic.
19. Clothes cleaning or laundry agency.
20. Clothing store or tailor shop.
21. Club, lodge, union or fraternal organization.
22. Cocktail lounge or tavern.
23. Confectionery store, including soda fountain.
24. Curtain or drapery shop.
25. Dancing school or music studio.
26. Day nursery.
27. Delicatessen.
28. Drug store or pharmacy.
29. Dry cleaning or pressing, except those using high volatile or combustible materials or using high pressure steam tanks or boilers.
30. Dry goods, millinery, or dress shop.
31. Electrical supply store.
32. Feed and seed store.
33. Florist shop.
34. Floor covering sales and service.
35. Food store.
36. Frozen food lockers, retail only.
37. Furniture store.
38. Garden store.
39. Gift, hobby or art shop.
40. Grocery store.
41. Hardware store.
42. Health studio, physical therapist, reducing salon.

43. Home occupation, when the provisions of the Ordinance regulating Business Licenses are complied with.

44. Hotel or motel.
45. Jewelry store, including repairing.
46. Leather goods sales, including harness and saddle shop.
47. Locksmith.
48. Magazine or newspaper distribution agency.
49. Meat market, retail only.
50. Mortuary, undertaking or funeral parlor.
51. Newspaper publishing.
52. Notions.
53. Office, business or professional.
54. Office supplies.
55. Paint store, including related contractor shop.
56. Parking lot or parking garage.
57. Pawnshop.
58. Pet shop.
59. Printing plant.
60. Radio or television sales and service.
61. Restaurant or hotel supply.
62. Restaurant or tearoom.
63. Retail store.
64. Scientific or professional instrument sale or repair.
65. Secondhand store.
66. Self-service laundry.
67. Shoe store or shoe repair shop.
68. Storage building for household goods.
69. Studio: art, music and photography.
70. Taxidermy shop.
71. Telephone or telegraph exchange.
72. Theater, except drive-in theater.
73. Upholstery shop.
74. Wholesale office of showroom with merchandise on the premises limited to small items and samples.
75. Other uses similar to the above and not specifically listed, subject to the approval of the planning commission.

Section 3.215. Conditional Uses Permitted. In a C-1 zone the following uses and their accessory uses are permitted when authorized in accordance with this section and Article VII of this ordinance (except the H-1 zone where small-scale light manufacturing is not allowed):

1. Small-scale light manufacturing operation subject to the following conditions:
  - a. All aspects of the operation, including storage, shall be conducted within an enclosed building.
  - b. The operation shall not exceed 10,000 square feet of floor area.
  - c. At least ten per cent of the floor area of the building shall be used for office space or as a showroom for display of products manufactured in the premises.

- d. All noise related to the operation shall be muffled so as not to be objectionable beyond the boundaries of the property where the operation is located.
  - e. Any smoke, odor, heat, or glare associated with the operation shall not have any harmful affect beyond the boundaries of the property where the operation is located.
  - f. The operation may be subject to periodic review by the planning commission to assure that all standards and requirements are being met.
  - g. Costs involved in monitoring the standards of this section, or any conditions of approval, shall be borne by the operator of the business, whether or not the business be found to be in violation of these standards or conditions.
2. Churches, synagogues and related activities.
  3. Governmental structure or land use including but not limited to, public park, playground, recreation building, fire station, library or museum.
  4. Hospital, sanitarium, rest home, homes for the aged, nursing home, or convalescent home.
  5. Day care facility.
  6. Public utility facility.
  7. Temporary Medical Hardship Manufactured Home on a lot with a permanent residential structure. (See Section 5.320 for standards)
  8. Uses operating before 7:00 a.m. or after 10:00 p.m.

Section 3.220. Signs. Refer to Section 5.400 to 5.430 for standards.

Section 3.230. Setback Requirements. Except as provided in Sections 5.010, 5.060 and 3.250, in a C-1 zone the yards shall be as follows:

1. The side yard shall be a minimum of ten feet where abutting a residential zone or lot used for residential purposes.
2. The rear yard shall be a minimum of twenty feet where abutting a residential zone or lot used for residential purposes.

Section 3.240. Lot Coverage. Except as provided in Section 3.250, in a C-1 zone buildings shall not occupy more than eighty percent of the lot area.

Section 3.245. Screening. Businesses that store equipment or materials outside, in the C-1 zone, shall enclose that area with a six foot high fence (or similar construction) to ensure that the storage of equipment or materials do not become an attractive nuisance.

Section 3.250. Residential Uses in a C-1 Zone. Where a residential use is permitted in a C-1 zone, the use shall comply with the development standards of the R-1 zone, relative to Height of Buildings, Lot Coverage, Setback Requirements, Lot Size, and Garage/Carport requirements.

### Commercial Zone C-2

Section 3.252. Uses Permitted. In a C-2 zone, a residential use is not allowed unless it is part of a mixed use development; otherwise, a use permitted outright in a C-1 zone is allowed provided that the procedures of Sections 5.500 to 5.580 are complied with when appropriate.

Section 3.254. Conditional Uses Permitted. In a C-2 zone the following uses and their accessory uses are permitted when authorized in accordance with this section and Article VII of this ordinance:

1. Churches, synagogues and related activities.
2. Government structure or land use including, but not limited to, park, recreation building, fire station, library or museum.
3. Hospital.
4. Day care facility.
5. Recreational vehicle park.
6. Public utility facility.
7. Uses operating before 7:00AM or after 10:00PM.

Section 3.256. Signs, Setback Requirements, Lot Coverage, and Screening. These standards and requirements are the same as in the C-1 zone.  
(Commercial Zone C-2 sections added by Ordinance No. 833, October 28, 2005)  
Harrisburg Historic District H-1.

Section 3.260. Uses Permitted Outright. In an H-1 Zone, uses permitted are the same as for a C-1 zone.

Section 3.262. Conditional Uses Permitted. In an H-1 Zone, conditional uses permitted are the same as for a C-1 zone.

Section 3.264. Signs. Refer to Section 5.400 to 5.430 for standards.

Section 3.266. Setback and Facade Requirements.

1. Setback requirements in an H-1 Zone are the same as for a C-1 zone.
2. Building facades in an H-1 Zone should be aligned with the existing structures on the street, maintaining the traditional pattern established by historic buildings.

Section 3.268. Height of Buildings. In an H-1 Zone, height of Buildings shall comply with the standards established in Section 3.288.

Section 3.270. Lot Coverage. In an H-1 Zone, lot coverage requirements are the same as for a C-1 zone.

Section 3.272. Historic District Area. The historic downtown district is defined as the area between Monroe and Macy Streets; and between 1st Street and the Union Pacific Railroad tracks.

The buildings in the local inventory of historic properties are listed as follows:

1. I.O.O.F. Hall, 190 Smith Street
2. May & Senders Store, Three Bay Arcaded Facade/Rectangular (original portion), 125 Smith Street
3. E.F. Wyatt House, 353 Smith Street
4. Hardware Store, 180 Smith Street
5. Hubbell Building, 286 Smith Street, 294 Smith Street and 146 South 3rd Street
6. Farmer's and Merchants Bank, 203 Smith Street
7. Moody Building, 206 South 3rd Street
8. Samuel May Barn, behind 480 Smith Street (Removed from the list 6/2/00)
9. Abner Waters/J.P. Schooling House, 206 South 4<sup>th</sup> Street and out building

#### 10. Thomas Sommerville House, 196 South 4th Street

Section 3.274. Building Scale and Mass. In an H-1 Zone, the architectural design, height, width and depth of the buildings should be compatible with the historic buildings listed above, especially those most adjacent. The vertical lines of columns and piers and the horizontal definition of cornices and other primary structural elements of historic buildings shall be recognized. Historically, the modulation of building facades was determined by lot parceling. Generally, buildings were built at 25, 50, and 100-foot widths. Within those general building widths, the building can be divided into a smaller bay storefront system by use of vertical elements.

Section 3.276. Building Shape. In a H-1 Zone, the ratio of height to width of the different elevations of the building should be consistent with that of buildings on the historic inventory.

Section 3.278. Building Orientation. In an H-1 zone, the entrance location and primary facade of the building should be oriented in the same or similar direction as that of nearby buildings.

Section 3.280. Facade Components. Repetition of historic facade components creates patterns and alignments that visually link buildings within a block or area, while allowing individual identity of each building. These elements are familiar and help to establish a sense of scale and context. The use of traditional facade components is encouraged, with the understanding that these elements may be reinterpreted in a variety of creative ways. Traditional facade elements include:

1. Cornice or parapet
2. Awning or canopy
3. Transom
4. First floor display window
5. Center entry, perhaps recessed

Section 3.282. Scale of Openings. The ratio of open surfaces (windows, doors) to enclosed surfaces (walls, roofs) of the building exterior should be similar to that of nearby buildings. The height, width, and shape of door and window openings should be compatible with buildings on the historic inventory. Section 3.284. Roof Form. Historically, buildings were constructed with flat roofs and a parapet or cornice on the main facade. The appearance of this tradition should be maintained in the H-1 Zone.

#### Design Guidelines for New Commercial Construction and Exterior Remodeling in the H-1 Zone.

Section 3.286. Design Standards. In an H-1 Zone, new commercial construction, facade renovation, or building rehabilitation shall reflect the city's historic, esthetic, and cultural heritage. The scale and form, style, material and texture, color, and signage shall follow the Design Guidelines for the Historic Downtown, beginning on page 6-21 of the Harrisburg Design & Community Action Plan, dated June 27, 1991.

1. Preliminary plans will be submitted to the city recorder for review.
2. Upon review the city recorder shall:
  - a. Determine whether the plan meets design guide-lines and approve the application as presented, or
  - b. Determine that the application requires site plan review.

3. The applicant shall be notified of the review decision within 30 days after the submittal of plans for review.

Section 3.288. Design Guidelines for Commercial Construction. In an H-1 Zone, new commercial construction and exterior remodeling shall follow the guidelines set forth in Sections 3.272 through 3.290 with the following exceptions:

The historic downtown commercial buildings shall be maintained and developed to represent a historic riverfront community of the late 1880's to early 1900's.

The following buildings currently listed on the local inventory of historic properties best represent buildings from this era:

1. IOOF Hall, 190 Smith Street
2. Rampy Building, 195 Smith Street
3. Hubbell Building, 286 Smith Street
4. May and Senders Store (original three bay arcaded facade), 125 Smith Street

Section 3.290. Building Materials for Commercial Construction. In an H-1 Zone, the type of materials used should be selected from those materials exhibited on the buildings representing the targeted era listed in Section 3.288 above. These include: wood, brick, cast iron, and wrought iron.

#### New Residential Construction and Exterior Remodeling in the H-1 Zone.

Section 3.292. Design Guidelines. In the H-1 Zone, the design guidelines shall be as follows:

1. Section 3.274 through 3.290 apply to new residential construction and exterior remodeling within the H-1 Zone.
2. These guidelines have been developed to insure that new construction and exterior remodeling are sympathetic in design to existing buildings in the H-1 Zone that are on the local inventory of historic properties.

Section 3.294. Building Materials. In the H-1 Zone, the type of materials for new residential construction and exterior remodeling should be selected from those historic materials already present in the area. These include wood, brick, concrete, stucco, and cast iron. Wood is also an acceptable material to use for details and ornament.

#### Limited Industrial Zone M-1.

Section 3.310. Uses Permitted Outright. In an M-1 zone the following uses and their accessory uses are permitted, subject to the site plan review standards and procedures of Sections 5.500 to 5.580:

1. Dwelling or Manufactured home for a caretaker or watchman working on the property.
2. Use involving any manufacturing, compounding, processing, packaging, treatment, or storage, which continuously complies with the performance standards, provided herein.
3. Feed and seed warehouses.
4. Freight depots and truck terminals.
5. General warehouses.
6. Implement and equipment sales, service and storage



7. Home occupation, when the provisions of the Ordinance regulating Business Licenses are complied with.

8. Lumber and building materials sales and storage.

9. Offices.

10. Railroad tracks and facilities necessary to serve other permitted uses.

11. Research laboratories.

12. Storage building for household goods.

13. Wholesale business sales room distributor or outlet.

14. Other uses similar to the above and not specifically listed, subject to the approval of the city council.

Section 3.320. Conditional Uses Permitted. In an M-1 zone the following uses and their accessory uses are permitted when authorized in accordance with Article VII of this ordinance:

1. Governmental structure or land use.

2. Public utility facility.

3. Kennel.

4. Radio and television transmitter or tower.

5. RV park (see Section 5.300 for standards)

6. Public park and recreational facility.

Section 3.330. Setback Requirements. In an M-1 zone the yards shall be as follows:

1. The yard along a street, other than an alley, shall be a minimum of twenty feet, unless otherwise specified by the planning commission.

2. The size of other yards shall be a minimum of ten feet, except where the lot abuts a residential zone the yard shall be a minimum of twenty feet.

Section 3.360. Lot Coverage. In an M-1 zone, buildings shall not occupy more than eighty percent of the lot area.

Section 3.380. Signs. Refer to Section 5.400 to 5.400 for standards.

#### General Industrial Zone M-2.

Section 3.410. Uses Permitted. In an M-2 zone, the following uses and their accessory uses are permitted, subject to the site plan review standards and procedures of Sections 5.500 to 5.580:

1. A use permitted outright in an M-1 zone.

2. Any other use, except a use listed in Section 3.420 or which has been declared a nuisance by statute, by action of the county, or a court of competent jurisdiction.

Section 3.420. Conditional Uses Permitted. In an M-2 zone, the following uses and their accessory uses are permitted when authorized in accordance with Article VII of this ordinance:

1. Quarry, gravel pit, surface or subsurface mining; including the crushing, screening, or washing of extracted materials.

2. Wrecking yards and junkyards.

3. RV Park (See Section 5.300 for standards).

Section 3.430. Setback Requirements. In an M-2 Zone, setback requirement shall comply with Section 3.330.

Section 3.460. Lot Coverage. In an M-2 Zone, lot coverage requirements shall comply with Section 3.360.

Section 3.470. Signs. Refer to Section 5.400 to 5.430 for standards.

#### Open Land Use (OLU) Zone.

Section 3.510. Uses Permitted Outright. In an OLU zone, no development shall be permitted outright.

Section 3.520. Conditional Uses Permitted. In an OLU zone the following uses and their accessory uses are permitted when authorized in accordance with Article VII of this ordinance:

1. Outdoor recreational use such as fishing access area, park, picnic area, campground or similar facility.
2. Public utility facility.
3. Governmental land use.

Section 3.530. Limitations on Buildings. In an OLU zone, use of buildings shall be limited to activities, which are clearly secondary to the primary use of the property.

#### Greenway (GW) Special Purpose District.

Section 3.610. Purpose. The purpose of the GW District is to provide development controls to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of land along the Willamette River, known as the Willamette River Greenway.

Section 3.620. Area of the GW District. All lands lying within the State Department of Transportation Greenway boundaries shall be included in the GW District.

Section 3.625. Definitions. Unless specifically defined below, words or phrases used in this district shall be interpreted to give them the same meaning as they have in this ordinance, so as to give this document its most reasonable application:

1. Change of use. Making a different use of the land or water than that which existed on December 6, 1975. It includes a change, which requires construction, alternations of the land, water, or other areas outside of existing buildings or structures, and which substantially alters or affects the land or water.
  - a. Change of use does not include a change of use of a building or other structure, which does not substantially alter or affect the land or water upon which it is situated. An existing open storage area shall be considered to be the same as a building.
  - b. The sale of property is not in itself considered to be a change of use.
  - c. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of the GW zone.
2. Intensification. Any additions which increase or expand the area or amount of an existing use, or the level of activity.

- a. Remodeling of the exterior of a structure not excluded below is intensification when it will substantially alter the appearance of the structure.
- b. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use.
- c. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use.
- d. Residential use of lands within the Greenway includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modification of existing structures or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered intensification for the purposes of this zone.
- e. Seasonal increases in gravel operations shall not be considered an intensification of use.

3. Water-dependent. A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy, production, or source of water.

4. Water-related. Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use and which, if not located adjacent to water, would result in a public loss of the quality of goods or services offered.

Section 3.630. Uses Permitted Outright. In the GW District, the following uses and their accessory uses are permitted outright:

1. Gravel removal from the bed of the Willamette River conducted under permit from the State of Oregon.
2. Customary dredging and channel maintenance conducted under permit from the State of Oregon.
3. Seasonal increases in gravel operations as provided under permit from the State of Oregon.
4. The placing by a public agency of signs, markers, aids, etc., to serve the public.
5. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands, except that new or substantial increases in level of development of existing public recreational, scenic, historical or natural uses on public lands shall require review as provided by this ordinance.
6. Erosion control operations not requiring a permit from the Division of State Lands.
7. Agriculture, as defined in ORS 215.203 (2).
8. Reasonable emergency procedures necessary for the safety or protection of property.
9. Maintenance and repair, usual and necessary for the continuance of an existing use.
10. In conjunction with existing use of related adjacent land, landscaping, construction of driveways, modifications of existing structures or the construction or replacement of such subsidiary structures or facilities, except residences or guest houses, which are usual and necessary to the use and enjoyment of existing improvements, and which are accomplished in a manner compatible with this ordinance.
11. The propagation of timber or the cutting of timber for public safety or personal noncommercial use, not requiring a permit in accordance with the Forest Practices Act.

12. Uses legally existing on the effective date of this ordinance; provided however, that any change or intensification of such use shall require review as provided by ordinance.

13. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and RV parks are not generally considered dependent on or related to water location needs.

Section 3.640. Conditional Uses Permitted. In the GW District, all uses provided for in the underlying zones which are not provided for as permitted uses in the GW District are permitted, when authorized in accordance with Section 3.650 and Article VII of this ordinance.

Section 3.650. Use Management Considerations and Criteria. In reviewing an application for a Greenway conditional use permit, compliance with the following considerations and criteria shall be determined:

1. Agricultural lands shall be preserved and maintained for farm use.
2. Significant fish and wildlife habitats shall be protected.
3. Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.
4. The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in the development, change of use, or intensification of use of land within the Greenway Zone.
5. Areas of annual flooding, flood plains and wetlands shall be preserved in their natural state to the maximum possible extent to protect water retention, overflow, and other natural functions.
6. The natural vegetative fringe along the river shall be maintained to the maximum extent that is practicable in order to assure scenic quality, protection of wildlife, protection from erosion and screening of uses from the river.
7. The proposed development, change of use or intensification of use, is compatible with existing uses on the site and the surrounding area.
8. Areas considered for development, change of use or intensification of use, which have erosion potential, shall be protected from loss by appropriate means which are compatible with the provisions of the Greenway Zone.
9. Extraction of aggregate deposits shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety and to guarantee necessary reclamation.
10. Any public recreational use or facility shall not substantially interfere with the established uses on adjoining property.
11. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
12. A minimum building setback line from the ordinary high water line of the Willamette River will be specified, that will minimize adverse impacts upon the scenic qualities of lands along the river, except for buildings and structures in conjunction with a water-related or water-dependent use.
13. Public access to and along the river shall be considered in conjunction with subdivision, commercial and industrial development, and public lands acquisition where

appropriate. This access should be located and designed to minimize trespass and other adverse affects on adjoining property.

14. The development shall be directed away from the river to the greatest possible extent.

15. The development, change of use, or intensification of use, shall provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.

16. Significant natural and scenic areas, viewpoints, and vistas shall be preserved.

Section 3.660. Notification. Notice requirements to be mailed to the Oregon Department of Parks and Recreation:

1. Notice requirements of Article VII for a conditional use in the GW District.
2. A copy of the permit application.
3. Notice of the decision.

### Safe Harbor Zone (SH)

Section 3.700. Purpose. The purpose of this zone is to protect and restore water bodies and their associated riparian areas, thereby protecting and restoring the hydrologic, ecological and land conservation functions these areas provide. Specifically, this zone is intended to protect habitat for fish and other aquatic life, protect habitat for wildlife, protect water quality for human uses and for aquatic life, control erosion and limit sedimentation, and reduce the effects of flooding.

This zone attempts to meet these goals by excluding structures from buffer areas around fish-bearing lakes, streams and associated wetlands, and by prohibiting vegetation removal or other alteration in those buffers.

For cases of hardship, this Section provides a procedure to reduce the riparian buffer. Alteration of the riparian area in such cases shall be offset by appropriate restoration or mitigation, as stipulated in this zone.

### Section 3.710. Definitions.

**Building Envelope.** The land area, outside of all required setbacks, which is available for construction of a primary structure on a particular property.

**Fish Use.** Inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts. Fish use is determined from Oregon Department of Forestry Stream Classification maps.

**Impervious Surface.** Any material which reduces and prevents absorption of storm water into previously undeveloped land.

**Lawn.** Grass or similar materials maintained as a ground cover of less than 6" in height. For purposes of this definition, lawn is not considered native vegetation regardless of the species used.

**Mitigation.** Taking one or more of the following actions listed in order of priority:

- a. Avoiding the impact altogether by not taking a certain development action or parts of that action;
- b. Minimizing impacts by limiting the degree or magnitude of the development action and its implementation;
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development action by monitoring and taking appropriate corrective measures; or
- e. Compensating for the impact by replacing or providing comparable substitute resources or environments.

**Net Loss.** A permanent loss of habitat units or habitat value resulting from a development action despite mitigation measures having been taken.

**Non-Conforming.** A structure or use that does not conform to the standards of this zone but has been in continuous existence from prior to the date of adoption of this ordinance up to the present. Non-conforming uses are not considered violations and are generally allowed to continue, though expansion, re-construction, or substantial improvement may be regulated.

**Off-Site Mitigation.** Habitat mitigation measures undertaken in areas distant from a development action, and which are intended to benefit fish and wildlife populations other than those directly affected by that action.

**On-Site Mitigation.** Habitat mitigation measures undertaken within or in proximity to areas affected by a development action, and which are intended to benefit fish and wildlife populations directly affected by that action.

**Riparian Area.** The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

**Stream.** A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

**Structure.** A building or other major improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components that are not customarily regulated through zoning ordinances.

**Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- 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 this definition Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
  - c. Any project for improvement of a structure to comply with existing state of local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
  - d. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Top of Bank.** The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage or delineate the top of bank.

**Section 3.810. Riparian Corridors.** The inventory of riparian areas contained in the Comprehensive Plan specifies which streams and lakes are fish-bearing, and the stream-size category. Based on the classification contained in this inventory, the following riparian corridors shall be established:

Along all fish-bearing lakes, and fish-bearing streams with average annual stream flow less than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be 50' from the top of bank, except as identified below:

- a. Along all streams with average annual stream flow greater than 1,000 cfs the riparian corridor boundary shall be 75' upland from the top of each bank.
- b. Where the riparian corridor includes all or portions of a significant wetland as identified in the Goal 5 or Goal 17 elements of the Comprehensive Plan, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland.
- c. Except as provided for in section (b) above, the measurement of distance to the riparian corridor boundary shall be from the top of bank. The measurement shall be a slope distance.
  - i) In areas where the top of each bank is not clearly defined, the riparian corridor boundary shall be measured from the ordinary high water level, or the line of non-aquatic vegetation, whichever is most landward.
  - ii) In areas where the predominant terrain consists of steep cliffs, the distance to the corridor boundary shall be measured as a horizontal distance until the top of the cliff is reached, and as a slope distance on from that point.

Section 3.820. Activities Within the Riparian Area.

- A. The permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces is prohibited, except for the following uses provided they are designed to minimize intrusion into the riparian area, and no other options or locations are feasible:
  1. Streets, roads, and paths.
  2. Drainage facilities, utilities, and irrigation pumps.
  3. Water-related and water-dependent use.
  4. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area. Structures or other non-conforming alterations existing fully or partially within the riparian area may be expanded provided the expansion does not occur within the riparian area.
    - a. Substantial improvement of a non-conforming structure in the riparian area shall require compliance with the standards of this zone.
  5. Existing lawn within the riparian area may be maintained, but not expanded within the riparian area. Development activities on the property shall not justify replacement of riparian area with lawn.
  6. Existing shoreline stabilization and flood control structures may be maintained.
    - a. any expansion of existing structures or development of new structures shall be evaluated by the City Engineer.
    - b. Such alteration of the riparian area shall be approved only if less-invasive or nonstructural methods will not adequately meet the stabilization or flood control needs; and
  7. Parks and related recreational activities.
- B. Removal of riparian vegetation is prohibited, except for:
  1. Removal of non-native vegetation and replacement with native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, and shall maintained or exceed the density of the removed vegetation.

2. Removal of vegetation necessary for the development of approved water-related or water-dependent uses. Vegetation removal shall be kept to the minimum necessary to allow the water-dependent or water-related use.
3. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from the City. If no hazard will be created, the City may require these trees, once felled, to be left in



place in the riparian area. Exceptions: The following activities are not required to meet the standard of this section:

- a. Commercial forest practices regulated by the Oregon Forest Practices Act.
- b. Normal and accepted practices regulated by the Oregon Forest Practices Act.

Section 3.830. Alteration Requiring Mitigation.

- A. Permanent alteration of the riparian area by placement of structures or impervious surfaces is allowable under the following procedures:
  1. A Variance to the riparian setback approved through the procedures of Section 3.840.
- B. On streams having average annual stream flow exceeding 1,000 cubic feet per second and having a 75-ft riparian buffer established under this ordinance, the riparian setback may be reduced as allowed under Section 3.840.
  1. For purposes of implementing Goal 5, the goal is no net loss of protected resources.
  2. Correspondingly, for purposes of designing appropriate mitigation, sites should be considered at least in "Habitat Category 2" (OAR 635-415-030), which strives for no net loss of habitat values.
- C. On streams having average annual stream flow exceeding 1,000 cfs and having a 75-ft riparian buffer established under this zone, structures and impervious surfaces may be placed within the riparian setback under the following conditions:
  1. The removal of vegetation shall be limited to the minimum amount necessary to accommodate the use. Any vegetation removed in excess of this standard shall be non-native species, and the proposal shall specify replacement of that vegetation with native species.
  2. The applicant shall provide sufficient information regarding the proposed development and potential impacts to riparian resources to allow the staff, in consultation with the ODFW, to determine whether the proposal will provide equal or better protection of riparian resources. This information includes, but is not necessarily limited to:
    - a. A plot plan showing the top of the stream or water body bank,
    - b. The extent of development within the riparian setback,
    - c. Uses that will occur within the riparian setback and potential impacts (for example: chemical runoff, noise, etc.),
    - d. The extent of vegetation removal proposed,
    - e. Characteristics of the existing vegetation (types, density),
    - f. Any proposed alterations of topography or drainage patterns,
    - g. Existing uses on the property, and
    - h. Any potential impacts they could have on riparian resources.
  3. In no case shall alterations occupy more than 50% of the width of the riparian area measured from the upland edge of the corridor.
  4. Approval of development activities within the riparian area shall be conditional, requiring compliance with the mitigation recommendations of the Oregon Department of Fish and Wildlife (ODFW), as per OAR 635-415 Fish and Wildlife Habitat Mitigation Policy

Section 3.840. Variance. A property owner may request a Variance to the riparian setback in accordance with Article VIII. In any decision concerning granting of a Variance, the following criteria shall be considered:

1. The proposed development requires deviation from the riparian standards;
2. Strict adherence to the riparian setback and other applicable standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone; and
3. That the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.

#### **ARTICLE IV** **Off-Street Parking and Loading**

Section 4.010. Off Street Parking Requirements.

1. Off-street parking areas shall be covered, unless permitted otherwise by the commission.
2. At the time of erection of a new structure within any zone in the city, or at the time of enlargement or change in use of an existing structure within the R-1, R-2, C-1, C-2, M-1 and M-2 zones, off-street parking spaces shall be provided in accordance with the requirements of this section, unless greater requirements are otherwise established.
3. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated, if elimination would result in less than is required by this section.
4. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property, but shall exclude space devoted to off-street parking or loading.
5. Where employees are 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 a whole space.

6. See parking space definition, which follows, for description of dimensions:

<u>Use</u>	<u>Standard</u>
1. Residential	
a. One-family dwelling:	Two spaces per dwelling unit
b. Multiple-family:	Two spaces per dwelling unit
c. Boarding, lodging or rooming house:	Spaces equal to 80 percent of the number of guest accommodations plus one additional space for the owner or manager
2. Commercial/residential	
a. Hotel:	One space per guest room, plus 1 space per 2 employees
b. Motel:	One space per guest room or suite plus 1 additional space for the owner or manager
c. Club or lodge:	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
3. Institutional:	
a. Convalescent hospital, nursing home, sanitarium, rest home, home for the aged:	One space per 2 beds for patients or residents.

- b. Hospital: Spaces equal to 1.5 times the number of beds.
4. Place of public assembly:
- a. Church: One space per 4 seats of 8 feet of bench length in the main auditorium
- b. Library/reading room: One space per 400 square feet of floor area plus 1 space per 2 employees.
- c. Nursery/primary: Two spaces per teacher.
- d. Elementary or junior high school: One space per classroom plus 1 space per administrative employee or 1 space per 4 seats or 8 feet of bench length in the auditorium or assembly room, whichever is greater.
- e. High School: One space per classroom plus 1 space per administrative employee plus 1 space for each 6 students, or 4 seats or 8 feet of bench length in the main auditorium, whichever is greater.
- f. College/Commercial school for adults: One space per 5 seats in classrooms.
- g. Other auditorium; meeting room: One space per 4 seats or 8 feet of bench length.
5. Commercial/amusement
- a. Arena; theater: One space per 4 seats or 8 feet of bench length.
- b. Bowling alley: Five spaces per alley plus 1 space per 2 employees.
- c. Dance hall; skating rink: One space per 100 square feet of floor area plus 1 space per 2 employees.
6. Commercial/other:
- a. Retail store except as provided in Subpart (b) of this subsection: One space per 200 square feet of floor area.
- b. Service or repair shop; retail store handling exclusively bulky merchandise such as automobiles and furniture: One space per 600 square feet of floor area.
- c. Bank; office (except medical and dental): One space per 600 square feet of floor area plus 1 space per 2 employees.
- d. Medical and Dental Clinic: One space per 300 square feet of floor area plus 1 space per 2 employees.
- e. Eating or Drinking establishment: One space per 200 square feet of floor area.
- f. Mortuaries: One space per 4 seats or 8 feet of bench length in chapels.

## 7. Industrial.

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| a. Storage warehouse;<br>manufacturing<br>establishment; rail,<br>or trucking freight<br>terminal: | One space per employee plus 1 space per 700<br>square feet of patron serving area. |
| b. Wholesale<br>establishment:   | One space per employee plus 1 space per 700<br>square feet of patron service area. |

Section 4.010.2. At the time of erection of a new structure within any zone in the City, or at the time of enlargement or change in use of an existing structure within the R-1, R-2, C-1, C-2, M-1 and M-2 zones, off-street parking spaces shall be provided in accordance with the requirements of this section, unless greater requirements are otherwise established.

Section 4.020. Off-Street Loading.

1. Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children, shall be located on the site of any school having a capacity greater than 25 students.

2. Merchandise, materials or supplies.

- a. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck, shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.
- b. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.
- c. Off-street parking areas used to fulfill the requirement of this ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

Section 4.030. General Provisions: Off-Street Parking and Loading.

1. The provision and maintenance of off-street parking and loading spaces are continuing obligations of the property owner.
2. Requirements for types of buildings and uses not specifically listed herein shall be determined by the commission, based upon the requirements of comparable uses listed.
3. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.
4. An owner of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the building official in the form of deeds, leases or contracts to establish the joint use.
5. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.
6. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used

for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

7. Unless otherwise provided, required parking and loading spaces shall not be located in required yards.

8. Plans for the building permit shall be submitted as provided in Section 10.020.

9. Provisions for handicapped parking shall be made, in accordance with State and Federal guidelines.

10. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space.

11. The subsequent use of property for which the building permit is issued, shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance. Use of property in violation hereof shall be a violation of this ordinance.

12. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided.

Section 4.040. Design requirements for parking lots:

1. Areas used for standing and maneuvering of vehicles shall provide drainage to avoid the flow of water across public sidewalks, and, except in an M-2 zone, shall be hard surfaced. (Amended by Ordinance 825, approved by the City Council April 13<sup>th</sup>, 2005)

2. Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet in height, except where vision clearance is required.

3. Parking spaces along the outer boundaries of a parking lot shall be contained by a curb at least four inches high and set back a minimum of four and one-half feet from the property line or by a bumper rail.

4. Access aisles shall be of sufficient width for all vehicles turning and maneuvering.

5. Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street other than an alley will be required.

6. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site.

a. The number of service drives shall be limited to the minimum that will allow the property to accommodate and serve the traffic to be anticipated.

b. Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives.

7. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points 20 feet from their intersection.

8. Lighting of the parking area shall be deflected from a residential zone and shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling.

Section 4.050. Completion time for parking lots.

1. Required parking spaces shall be improved and available for use by the time the use served by the parking lot is ready for occupancy.

2. An extension of time may be granted by the commission providing a performance bond, or its equivalent, is posted equaling the cost to complete the improvements as estimated by the building official.

3. In the event the improvements are not completed within one year's time, the bond or its equivalent shall be forfeited and the improvements henceforth constructed under the direction of the city.

Section 4.060 Bicycle Parking. Bicycle parking shall be provided as follows:

1. The minimum number of required parking spaces shall be:

- a. One for each residential unit in a multi family development that consists of four or more dwelling units.
- b. One for every ten motor vehicle parking spaces in all public and commercial parking lots, except that there shall be at least one bicycle parking space for every ten students and employees at a school; and,
- c. Unless the Planning Commission makes findings of fact from which to vary the number of bicycle spaces required, the number of spaces at other nonresidential use shall be based upon the ratio of one bicycle parking space for every 20 persons that may be at the location at any one time.

2. Bicycle parking shall be conveniently located with respect to both the street right-of-way and at least one building entrance. It should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided. Street furniture shall include benches, street lights, planter and other pedestrian amenities.

3. Bicycle parking shall be visible to cyclists from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.

4. Where possible, bicycle parking shall be sheltered from the weather.

(Amended by Ordinance No. 828, Adopted May 11, 2005)

## **ARTICLE V** **Supplementary Provisions**

Section 5.010. General Provisions Regarding Accessory Uses. Accessory uses shall comply with all requirements for the principal use except where specifically modified by this ordinance and shall comply with the following limitations:

1. A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

2. A guest house may be maintained accessory to a dwelling, provided there are no cooking facilities in the guest house.

3. Regardless of the side yard requirements of the zone, in a residential zone, a side or rear yard may be reduced to three feet for an accessory structure erected more than 65 feet from a street, other than an alley, provided the structure is detached from other buildings by five feet or more and does not exceed a height of one story nor an area of 450 square feet.

4. An accessory structure is considered a building (including free standing, metal-framed, canvas-covered carports or similar structures) versus a grape arbor, fence, etc.

5. Any structure that is connected to the principal use structure shall meet the same standards for setbacks, as the principal use structure.

6. Accessory structures shall be constructed in accordance with the Oregon Structural Specialty Code and Oregon Residential Specialty Code, with the exception of accessory structures that meet all of the following criteria:

- a. The structure is 200 square feet or less in size,
- b. The structure averages ten feet or less in height, and
- c. The structure has been purchased from a retail business either in finished or kit form.

7. Accessory structures on residential property shall be constructed of the same materials and shall be of the same architectural style as the residential structure if it is:

- a. Located in a front yard,
- b. Located within 10 feet of a side property line that adjoins a public right-of-way,
- c. Located within 20 feet of a rear property line that adjoins a public right-of-way, or
- d. Has an average height of more than 10 feet.

[Subsection 7 moved and amended by Ordinance No. 836, November 9<sup>th</sup>, 2005] 8. Mobile homes (or decommissioned mobile homes), semi-trailer boxes, etc., shall not be acceptable as an accessory structure.

9. Temporary containers, such as shipping or truck container boxes, can be utilized in industrial zones when screened from public view.

10. Screening, painting and siding material shall be acceptable to the city zoning official, if the accessory structure is visible to the general public from the street or sidewalk adjacent to the property on which the accessory structure is located.

[Subsection 6 and 7 were amended by Ordinance No. 816, adopted July 14, 2004]

[Subsection 6 was further amended by Ordinance No. 836, adopted November 9, 2005]

[Section 5.015 Repealed by Ordinance No. 860, Effective August 8, 2007]

### Fence Requirements.

#### Section 5.020. Application for Construction of Fences:

1. An applicant desiring to construct a fence shall present a fence plan to the city prior to construction. The plan shall list all property pegs, utilities, location of buildings on the property, and all setbacks.

2. The City shall review the fence plan, make any necessary changes, and allow the work to proceed. Such permission shall not preclude any requirement for a permit to meet the standards of the building code and an inspection on that permit.

3. By approval of a fence plan, the City does not accept responsibility for, nor grant permission for, a fence that is built in the wrong location.

Section 5.030 Fence Requirements for Residential and Multi-Family:  
Materials and Standards:

1. Materials. Fences and walls on property zoned or used for residential purposes shall not be constructed of, or contain, any material which will do bodily harm, such as barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, nor shall electric fences be used, except where used to confine livestock weighing more than 200 pounds and reasonable precautions have been taken to prevent injuries to persons.

2. Standards.

- a. Every fence shall be maintained in a condition of good repair and shall not be allowed to become and remain in a condition of disrepair including: noticeable leaning, missing sections or slats, or broken supports and over-growth of weeds or vines.
- b. Fences, hedges and walls shall not exceed three feet in height, in any required front yard, measured from the top of the curb, or where no curb exists, from the established street center line grade.
- c. A vision clearance area, as specified in this ordinance, shall be maintained.
- d. Any fence more than six feet in height shall require a building permit.
- e. In no instance shall a fence or hedge extend into the right-of way of a street or alley.
- f. In front yards and on side yards abutting a street, a four-foot chain link fence may be built without the use of view obscuring slats.

[Section 5.030 amended by Ordinance No. 795, adopted on April 24, 2002]

Section 5.040. Fence Requirements for Commercial and Industrial:

1. Materials: Fences and walls shall not be constructed of, or contain, any material which will do bodily harm, such as electric or barbed wire, broken glass, spikes, or other hazardous or dangerous materials, except as follows:

- a. Barbed wire is permitted atop a six-foot chain link fence. The total height of the fence and barbed wire is limited to eight feet. Barbed wire only fences are prohibited.
- b. Concertina wire may be used around correctional institutions and high security areas on top of a six-foot chain link fence, provided that the fences are posted with clearly visible warnings of the hazard at intervals, which are no greater than fifteen feet.

2. Standards:

- a. Fences, six feet in total height or less, may be constructed, up to and on, the property line.
- b. Fences may be up to eight feet in height, if the fence is located behind a front yard planting area, if one is required, and where it is necessary to:
  - i) Protect property of the industry concerned;
  - ii) Protect the public from a dangerous condition; and is
  - iii) Located outside of any vision clearance area.
- c. Fences more than six feet in height shall have a building permit, meet the standards of the building code and be inspected.

Section 5.050. Requirements of a Sight-Obscuring Fence, Wall or Hedge.  
Whenever a sight-obscuring fence, wall, or hedge is required under the provisions of this ordinance, it must meet the following provisions:



1. Sight-obscuring. Hedges will be planted in such a way as to be virtually sight obscuring within three years of planting.
2. Height.
  - a. Fences and walls will be a minimum of six feet in height.
  - b. Hedges will be of a species capable of attaining a height of at least six feet within three years of planting, given their age, height, and health when planted.
3. Maintenance.
  - a. Fences and walls will be maintained in safe condition.
  - b. Wooden materials will be protected from rot, decay, and insect infestation.
  - c. Hedges will be replaced within 6 months after dying or becoming diseased.
4. Standards. No fence is allowed to become or remain in a condition of disrepair including, but not limited to: noticeable leaning, missing slats, broken supports, and overgrowth of weeds or vines.
5. In no instance shall a fence or hedge extend into the right-of-way of a street or alley.
6. Residential or multi-family uses in commercial or industrial zones shall meet the standards of section 5.030.

#### Other Uses and Requirements.

Section 5.060. Authorization of Similar Uses. The commission may rule that a use, not specifically listed in the allowed uses of a zone, shall be included among the allowed uses, if the use is of the same general type and is similar to the allowed uses.

However, this section does not authorize the inclusion in a zone where it is not listed, or a use specifically listed in another zone, or which is of the same general type and is similar to a use specifically listed in another zone.

Section 5.070. Projections from Buildings. Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than two feet into a required yard or into required open space as established by coverage standards.

Section 5.080. Maintenance of Minimum Ordinance Requirements. No lot area, yard or other open space, or required off-street parking or loading area shall be reduced in area, dimension or size below the minimum required by this ordinance, without Commission approval.

Nor shall any lot area, yard or other open space or off-street parking or loading area, which is required by this ordinance for one use, be used as the lot area, yard, or other open space or off-street parking or loading area requirement for any other use.

Section 5.090. General Exception to Lot Size Requirements. If, at the time of passage of this ordinance, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the lot or aggregate holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to single-family residence.

Section 5.100. Exceptions to Yard Requirements.

1. Subject to the requirements of Subsection (2) of this section, in the case of a dwelling, the following exception to the front yard requirement is authorized for a lot in any zone:

- a. If there are dwellings on both abutting lots with front yards of less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
- b. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth half way between the depth of the abutting lot and required front yard depth.

2. To permit or afford better light, air and vision on more heavily traveled streets and on streets of sub-standard width; to protect arterial streets; and to have the location of structures compatible with the need for the eventual widening of streets, a yard shall be provided butting the streets and portions of streets hereinafter named which shall be greater than the required yard dimension specified in the zone. The building setback line, from the property line, will be as follows:

<u>Street or Portion of Street</u>	<u>Setback</u>
U.S. 99E (3rd Street)	15 feet
Territorial Street (3rd St., East to city limits)	25 feet
Peoria Road	30 feet
Diamond Hill Road (7th St., East to city limits)	30 feet
LaSalle Street (3rd Street, East to city limits)	25 feet
S. 6th Street (LaSalle, South to city limits)	25 feet
6th Street (between Smith and LaSalle)	25 feet
7th Street (Smith to Diamond Hill Road)	30 feet

[Section 5.100 (2) amended by Ordinance No. 816, adopted July 14, 2004]

Section 5.110. General Exception to Building Height Limitations. The following types of structures or structural parts are not subject to the building height limitations of this ordinance: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers and water towers, elevator shafts, windmills, conveyors, and other similar projections.

Section 5.120. Access. All lots shall abut a street other than an alley for a width of at least 25 feet.

Section 5.130. Vision Clearance Area Requirements.

1. A vision clearance area is a triangular area at intersections. For the purpose of this ordinance, an intersection is where two or more public or private right-of-ways for vehicular or pedestrian traffic come together. These two right-of-ways form two sides of the triangle, with the third side of the triangle being an interior line that connects the first two sides.

2. The vision clearance area shall contain no planting, walls, berm, structure, or other temporary or permanent feature that is more than 30 inches above the curb (or if there is no curb, then 30 inches above the grade of the street centerline), except that public sign posts, utility poles, and trees that have no branches or foliage below a height of eight feet above the curb height will be allowed unless they are found to create an unreasonable hazard to the public.

3. A vision clearance area shall allow an approaching motorist, from a distance of fifteen feet before an intersection, to see oncoming traffic on an intersecting right-of-way from at least the following distances:

If intersecting with a sidewalk or pedestrian path:	15 feet
If intersecting with an alley or bike path:	30 feet
If intersecting with a street with a speed limit of 25 M.P.H.:	75 feet
If intersecting with a street with a speed limit of 30-45 M.P.H.:	100 feet
If intersecting with a street with a speed limit over 45 M.P.H.:	125 feet

Section 5.140. Pedestrian and Bicycle Pathways.

1. To ensure safe, direct and convenient pedestrian circulation, all developments other than single family detached housing shall provide a continuous pedestrian and/or bicycle pathway system.

2. The pathways system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas whenever possible. The developer may also be required to connect or stub pathways to adjacent streets and private property.

3. Pathways within developments shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets, based upon the following definitions:

- a. "Safe" means bicycle and pedestrian routes that are reasonably free from hazards.
- b. "Reasonably direct" means a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out of direction traveled for likely users.
- c. "Convenient" means bicycle and pedestrian routes that is a reasonably direct route of travel between destinations.
- d. "Primary entrance" means the main public entrance to a building that is for commercial, industrial, missed use, public or institutional use. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.

4. For all developments subject to Site Plan Review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas where feasible, and adjacent developments where feasible.

5. Pathway surfaces other than nature trails or through wetlands shall be concrete, asphalt, brick/masonry pavers, or other durable surface, and shall conform to the Americans With Disabilities Act standards. A pathway should be not less than five feet wide if used exclusively by pedestrians; not less than eight feet wide if used jointly by pedestrians and bicyclists. (Section 5.140 Added by Ordinance No. 828, adopted May 11, 2005)

Historic Resource Alteration and Demolition Review and Procedures.

Section 5.200. Purpose: The purpose of this section is to encourage the preservation of Harrisburg's historic resources through the establishment of procedures to review and act upon applications for permits to alter or demolish those resources.

Section 5.210. Harrisburg Register of Historic Resources. The provisions of this article apply to all resources, which are listed as follows:

1. I.O.O.F. Hall, 190 Smith Street
2. May & Sender Store - Three Bay Arcaded Facade/Rectangular (original portion), 125 Smith Street
3. Lasell House, 730 South 2nd Street
4. E.F. Wyatt House, 353 Smith Street
5. Enoch Hoult House, 895 South 6th Street
6. Katherine Upmeyer House, 290 North 7th Street
7. May and Senders Warehouse, 200 North 5th Street (two oldest buildings)
8. Hardware Store, 180 Smith Street
9. Harrisburg Ferry Landing, River Bank between Kesling and Schooling Streets
10. George McCart House, 395 South 2nd Street
11. Moody Building, 206-222 South 3rd Street
12. Hubbell Building, 146 So. 3rd Street, 286-294 Smith Street
13. Farmer's and Merchants Bank, 203 Smith Street
14. Ling-Hall House, 290 Fountain Street
15. Samuel May barn, behind 480 Smith Street
16. Abner Water/J.P. Schooling House, 205 South 4th Street and out building
17. Alfred Humphrey House, 265 North 7th Street
18. W.L. Tyler House, 185 North 4th Street
19. Thomas Sommerville House, 196 South 4th Street
20. H.M. Roberts House, 130 North 7th Street
21. Marshall Canter House, 305 South 4th Street
22. Stephen Church House, 225 North 2nd Street

Section 5.220. Alteration and Demolition Permits Required. A permit is required for alteration or demolition of any resource listed on the Harrisburg Register of Historic Resources.

1. Alteration, as governed by this section, means any addition to, removal of, or change in the exterior part of a historic resource but shall not include paint color.

2. Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, material, or external appearance. Nor does this section prevent the construction, reconstruction, alteration, rehabilitation, restoration, demolition, or removal of any such feature when the building official determines that such emergency action is required for the public safety due to an unsafe or dangerous condition.

3. Exception. A permit is not required under this article for the alteration of a historic resource when the review of the proposed alteration is required by an agency of the state or federal government.

Section 5.230. Review Procedures. The review process before the commission shall be as follows:

1. A property owner or his authorized agent may initiate a request for alteration or demolition of an historic resource by filing an application with the city and paying the filing fee, in accordance with the provisions of Section 10.060.

2. A public hearing shall be held in accordance with the notice provisions of Section 10.120.

3. Notice shall also be mailed to the owner(s) of the affected property, the State Historic Preservation Office, and any person requesting notice of demolition or alteration of a historic resource.

4. The hearing shall be held no later than 55 days after the application is filed.
5. The commission may recess a hearing on a request for an alteration or demolition, in order to obtain additional information, or to serve notice on other property owners or persons whom, it decides may be interested in the request. Upon recessing for this purpose, the commission shall announce a time, date, and place for resumption of the hearing.
6. Notification of the commission decision shall be in accordance with Section 10.120(3).
7. The decision of the planning commission shall be based on the criteria established in Section 5.240 to 5.260.

Section 5.240. Criteria for demolition: Criteria for Review of Demolition Application. The commission shall use the following:

1. The state of repair of the building and the economic feasibility of rehabilitation.
2. Hardship of the applicant.
3. The quantity and quality of other historic resources in the city comparable in terms of type and style.

Section 5.250. Decision Action for Demolition Review.

1. The commission shall either:
  - a. Allow immediate issuance of the demolition permit, or
  - b. Require a delay in the issuance of the permit for up to 120 days. During this period, the city shall attempt to determine if public or private acquisition and preservation are feasible, or if other alternatives exist which could prevent the demolition of the resource.
2. In the case of approval of the permit, the commission shall recommend to the property owner that the city be allowed to take several black and white photographs of the resource prior to demolition. Any photographs shall be kept on file at the city recorders office.

Section 5.260. Review Criteria for An Alteration Application. To preserve the historical and architectural integrity of historical resources and to provide for public safety, recommended actions shall be based on applicable state and local codes and ordinances related to building, fire, life, and safety, and the following criteria:

1. The removal or alteration of any historical marker or distinctive architectural features shall be avoided when possible.
2. Alterations, which include materials or a design not in keeping with the historic appearance of the building or structure, shall be discouraged.
3. Alterations, which have taken place over the course of time, are part of the history and development of the building or structure. These alterations may be significant in their own right and shall be preserved, if possible, and appropriate.
4. Distinctive stylistic features or examples of skilled craftsmanship should be treated carefully and retained whenever possible.
5. Deteriorated architectural features shall be repaired, rather than replaced, whenever possible.
6. If it is necessary to replace deteriorated architectural features, new materials should match in terms of composition, design, color and texture.
  - a. Repair or replacement of missing architectural features shall be based on accurate duplications of features substantiated by historic, physical or pictorial evidence rather than on availability or architectural elements from other buildings or structures.

b. The design shall be compatible with the size, scale, and material of the historic building or structure and shall be compatible with the character of the neighborhood.

Section 5.270. Decision Action for Alteration Review. The commission will take one of the following actions:

1. Approve the request as submitted; or
2. Approve the request with modifications, conditions, or recommendations; or
3. Deny the request.

### RV Park Standards.

Section 5.300. RV Park Standards. RV Parks shall comply with state standards at the time of construction and, in addition, meet the following standards:

1. The space provided for each RV must be a minimum of 700 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles other than RV's and landscaped areas.
2. Roadways must be a minimum of 30 feet in width if parking is permitted on the margin of the roadway, or 24 feet in width if parking is not permitted on the edge of the roadway. Roadways must be paved with asphalt, concrete, or similar impervious surface and designed to permit easy access to each RV space.
3. Parking spaces provided for the RVs must be covered with crushed gravel or paved with asphalt, concrete, or similar material and designed to provide runoff of surface water.

The part of the space which is not occupied by the recreation vehicle, intended as an access way, or part of an outdoor patio, need not be paved or covered with gravel, provided the area is landscaped or otherwise treated to prevent dust or mud.

4. All RV spaces must be provided with public water and electrical service. Use of electricity should be encouraged to limit generator noise.
5. Provision of a dump station for holding tanks in the RV Park, built to Health Department standards, shall be provided for 1-20 spaces; over 20 spaces, sewer service shall be provided for each space.
6. Trash receptacles for the disposal of solid waste materials must be provided in convenient locations for the use of guests of the park and be of sufficient quantity and capacity so that there is no uncovered accumulation of trash at any time.
7. No RV shall remain in the park for more than 45 days in each calendar quarter. The city zoning official or designee shall be afforded the right to drive through the property and review all registration documents.
8. The total number of parking spaces in the park, exclusive of parking provided for the use of the manager or employees of the park, must be equal to one space per RV space.
9. When required by the State, the park must provide toilets, lavatories, and showers for each sex in the following ratios:
  - i. For each 20 recreational vehicles, spaces or any fraction thereof; one toilet, one urinal, one lavatory, and one shower for men; and,
  - ii. One toilet, one lavatory, and one shower for women.

The toilets and showers must afford privacy and the showers must be provided with private dressing rooms.

Facilities for each sex must be located in separate buildings, or if in the same building, must be separated by a soundproof wall.

10. Restroom facilities required by subsection (9) of this section must be lighted at all times, ventilated, provided with heating facilities which maintain a room temperature no lower than 65 degrees Fahrenheit and provided with adequate floor drains to permit easy cleaning.

The facilities must have a floor of waterproof material, and sanitary ceiling, floor and wall surfaces.

11. The applicant shall submit a landscaping plan to be reviewed and approved by the planning commission.

12. The park must be maintained in a neat appearance at all times. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest of the park.

13. No fire pits shall be allowed.

14. A telephone shall be available to provide emergency services, as a minimum requirement.

#### Manufactured Dwelling Park (MDP).

Section 5.310. Manufactured Dwelling (MD) Park Standards (MDP). A MDP shall be permitted, provided it meets the standards of OAR Chapter 814, Division 28, and the following standards:

1. The minimum size of a MDP shall be 1 acre.
2. The maximum development density of a MDP shall be one mobile home per 5,000 square feet of area within the boundaries of the park.
3. The minimum size of an individual MD space shall be 3,500 square feet.
4. Each MD and building on the property shall meet city setback standards from a property line abutting a city street, and at least 10 feet from all other property lines.
5. The minimum distance between MDs shall be 10 feet. Each MD shall be at least 20 feet from a community or service building within the MDP, 5 feet away from all private interior access roads, five feet from a walkway, and six feet from any accessory building. (Section 5.310 (5) amended by Ordinance No. 805, adopted February 26<sup>th</sup>, 2003. Section 5.310 (5) further amended by Ordinance No. 829, adopted May 11, 2005)
6. The interior access road system within a MDP shall have direct access to a publicly owned and maintained street adjacent to the MDP.
7. All access roads and driveways within the MDP shall be hard surfaced and installed under the supervision of a licensed engineer.
8. Hard-surfaced walkways, meeting American Disability Standards, shall be required to connect MD spaces with community or service buildings and to provide for adequate pedestrian circulation throughout the MDP.
9. Access for fire protection services shall permit fire apparatus to approach within 100 feet of each MD. Fire hydrants shall be located along all access streets within the MDP so that they are within 500 feet of all MD spaces.
10. All required fire hydrants and water, sewer and drainage facilities shall be installed to city standards and under the supervision of a licensed engineer.  
The installation of either a master water meter for the MDP or installation of water meters at each individual MD space shall be approved by the city.
11. A MDP shall be provided with separate recreational areas of at least 2,500 square feet, or 200 square feet per MD space, whichever standard is greater.
12. Recreational areas adjacent to a parking lot, road, railroad, river, or similar potential hazard, shall be fenced on the side adjacent to the hazard, with a minimum five foot high fence, permanently maintained in good condition.

13. Accessory structures located in any MD space shall be limited to a deck, a storage building, and a carport or garage.

14. A separate area within the MDP shall be set aside for the outdoor storage of recreation vehicles and similar equipment owned by residents of the MDP.

15. All areas not used for MD spaces, off-street parking or storage, traffic circulation, or community or service buildings shall be completely and permanently landscaped and shall be maintained in good condition. Installation of required landscaping will be completed prior to issuance of placement permits.

16. Screening shall be provided on all sides of a MDP that are adjacent to residentially zoned land. It shall effectively screen the MDP from view, and shall consist of a continuous site obscuring wall, fence, evergreen hedge, or combination thereof. The screening shall be maintained in good condition.

17. One freestanding non-illuminated sign identifying the MDP shall be allowed at each vehicular entrance to the MDP and shall not exceed eight square feet. A freestanding sign, over six feet in height, shall require a building permit. An information sign showing the permanent map layout of the MDP may also be located at each entrance.

18. Transparent as-built drawings, for all utilities and service lines, shall be provided to the city within sixty days of completion of the project.

19. In addition to the Site Plan Review Procedures of Sections 5.500 through 5.580, the plot plan for a MDP which is submitted for review and approval shall include the following information:

- a. The general layout of the MDP at a scale not smaller than one inch to fifty feet.
- b. The plot plan shall indicate the location of all adjacent streets and property lines.
- c. The boundaries and dimensions of the MDP.
- d. The location and dimension of each MD space, with a number for each space.
- e. The location, dimensions, and proposed use of each proposed building, or existing building.
- f. The location and width of access roads and walkway.
- g. A landscaping plan and screening plan, including the location of fences, walls and significant landscaping.
- h. The location and a detailed site plan for recreation and play area.
- i. An enlarged plot plan for a typical MD space.
- j. Plans for water, sewer, and lighting systems and for fire protection facilities.
- k. Schedules for construction, and for phasing of development.
- l. Other plot plan elements, as required by OAR 814.28.050.

#### Manufactured Dwelling (MD) Placement Standards.

Section 5.320. Manufactured Dwelling (MD) Placement Standards. Placement of a MD on individual lots shall include all of the standards listed below:

1. Be multi-sectional (doublewide or wider) and enclose a floor area of not less than 1,000 square feet.
2. Be placed on an excavated and back-filled foundation, with no more than 24 inches of enclosing material exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the uphill side of the home. All fill and backfill soil surrounding the MD shall be compacted so as not to allow displacement. Soil grading around the MD shall be accomplished in such a manner that water will drain away from the MD at a slope of 1/2 foot vertical for every 12 feet horizontal.



3. Be placed on continuous concrete footings and securely anchored to a foundation and anchoring system, which is in compliance with the Oregon Administrative Rule and the manufacturer's specifications.

4. Have all load bearing foundation, supports and enclosures installed in conformance with the Oregon Department of Commerce regulations and the manufacturer's specifications.

5. Have a base enclosed continuously with either concrete, concrete block, brick, stone masonry, pressure treated wood, or combination thereof, or material identical to that used on the MD.

Siding shall not come in contact with soil, masonry or concrete, in accordance with OAR 918-505-010 (7).

Ventilation shall comply with manufacture requirements. If not addressed by the manufacture, ventilation shall comply with OAR 918-505- 060, Table 4.

The material shall be of weather resistant, non-combustible or self-extinguishing materials. The materials below ground and for a distance of six inches above grade shall be resistant to decay or oxidation.

6. Have exterior siding and roofing which, in color, material and appearance, is similar to the exterior siding and roofing material commonly used in the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the zoning official.

7. Have the wheels, axles, and tongue removed.

8. Will be considered new construction and the city requirements for curbs, gutters, and sidewalks complied with.

9. Have a roof with composition, shake, shingle, tile, or colored non-glare steel roofing material and minimum pitch of 3 feet in height for each 12 feet in width.

10. At the time of installation, be in good repair and free of structural, electrical, mechanical and plumbing defects.

11. Be connected to the city sewer system and city water system, where city water is available to serve the property.

12. Not be sited adjacent to any structure listed on the Register of Historic Landmarks and Districts.

13. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce infiltration and exfiltration levels of equivalence to the performance standards of single-family dwellings constructed under the state building code as defined in ORS 455.010.

14. Have a garage or carport that shall:

a. Be installed prior to occupancy.

b. Have exterior siding and roofing that, in color, material and appearance, is similar to the exterior siding and roofing material commonly used on residential dwellings within the community, or that is comparable to the predominant materials used on surrounding dwellings as determined by the local zoning official.

15. A placement permit shall be issued to the owner or the owner's authorized representative. The placement permit shall indicate that the MD and its location conform with this ordinance.

The application for a placement permit shall be accompanied by:

a. A plot plan showing the proposed location of the MD on the lot and including the exterior dimensions of the home and setbacks from all property lines.

b. The make, model, and serial number of the MD will be indicated on the plot plan.

c. Information indicating the dimensions of the livable area within the MD and the materials and design of the roof, foundation support system and perimeter crawl space enclosure.

- d. An agreement signed by the homeowner or authorized representative pledging full compliance with this ordinance.
- e. Acknowledgement that the placement permit shall remain in effect for 180 days after the date of approval by the city for installation of the MD. If the MD has not been placed on the property by the end of the 180 day period, the homeowner may ask for an extension of the permit for one additional 180 day time period. If the MD is not placed on the property during the authorized time period, the placement permit shall be automatically canceled.
- f. In the event the MD is removed from its permanent supports, the owner shall sign a letter agreeing to the removal of the supports, and all additions thereto from the property. This agreement shall authorize the city to perform the work and to place a lien against the property for the cost of the work within 30 days from the date the MD is removed from its supports. This condition shall not apply in the event that a new placement permit has been approved for the same property, by the city, within 30 days from the date the MD is removed from its supports.

### Sign Regulations.

Section 5.400. Sign Regulations. Section 5.400 through 5.430 provide standards and procedures for the placement of signs, with the intent of continuing the aesthetic improvement of the city's environment and to promote traffic safety by regulating the location, size, and number of signs.

#### Section 5.405. Definitions.

Banner - A sign on flexible material, such as canvas, that is designed to be hung between two or more points horizontally, or to be attached to a structure.

Flag - A rectangular, square, or triangular device, made of a fabric like material, that is designed to be displayed by being attached to a pole usually along one vertical edge, and that can be moved by the wind.

Portable sign - A moveable sign that is not affixed to a building, structure, or the ground. These signs include, but are not limited to, A-frame signs, signs attached to metal frames designed to be self-supporting, and trailer reader boards.

Roof sign - A sign erected or displayed above the eaves of a building.

Sign - Words, letters, or pictorial device, such as a logo, intended to convey information to people passing by or on another property.

Wall sign - A sign attached to, erected against, or painted on a wall or of a building.  
[Section 5.405 added by Ordinance No. 780 adopted February 28, 2001.]

Section 5.410. Exempt signs. The following signs are exempt from this ordinance:

1. Governmental signs. Traffic or other governmental street signs, such as railroad crossing signs.

2. Public safety signs. Signs of public utility companies indicating danger or which serve as an aid to public safety, or which show the location of underground utilities or of public telephones.

3. Civic or charitable events. Events recognized by the city as being of a civic or charitable nature.

4. Flags. Flags are exempt so long as they are not torn, tattered, or faded.

5. Directional signs. If requested, organizations recognized by the State of Oregon, as being not for profit shall be entitled to two directional signs if the following criteria are met:

- a. The organization shall have regular weekly meetings at the same location.

- b. The meetings shall normally be attended by 50 or more persons.
- c. The organization shall indicate the two intersections where the signs are wanted.
- d. The signs shall be for the convenience of the public in finding the meeting location.
- e. The City will provide and install the signs, which the organization will pay for.

[Section 5.410 amended by Ordinance No. 780 adopted February 28, 2001.]

Section 5.420. Allowed signs.

1. R-1 zone. The following signs are allowed in an R-1 zone:
  - a. One nonilluminated name plate or sign not exceeding four square feet.
  - b. One nonilluminated sign pertaining to the lease, rental or sale of the property, not to exceed eight square feet in area.
  - c. Up to four off-site directional signs, not to exceed four square feet in size, to indicate the location of property that is for lease, rental or sale.
  - d. One sign per tract of land or subdivision advertising the sale of the property. Such sign shall not exceed 32 square feet in area and shall be removed after one year or after all of the land or subdivision has been leased or sold whichever occurs first. The commission may grant an extension of time not to exceed one year.
  - e. Political signs up to 32 square feet in size relating to candidates or matters scheduled for a public vote, so long as they are displayed not more than 60 days before the scheduled election and they are removed within three days following the election.
  - f. Garage sale signs as described in 5420.7.
  - g. One portable sign, not exceeding four square feet in size, advertising a home occupation business so long as the sign is only displayed during hours the business is open.
2. R-2 zone. The following signs are allowed in an R-2 zone:
  - a. Signs that are allowed in an R-1 zone.
  - b. One sign per boarding, lodging, or rooming house, not exceeding eight square feet in area.
  - c. At a multi-family complex consisting of more than 12 dwelling units, a wall sign of up to 16 square feet, or a freestanding sign of up to 32 square feet per side.
3. C-1, C-2 and NC zones. Only the following signs are allowed in a C-1, C-2 and NC zones.
  - a. Signs that are allowed in an R-1 or R-2 zone, except that the rules of section "e", below, control as to portable signs in the C-1 and NC zones.
  - b. One freestanding sign on a tax lot, subject to the following:
    - i. Freestanding signs located within 300 feet of a residential zone shall be set back at least ten feet from a lot which is zoned or used for residential purposes, and shall not exceed an area of 32 square feet per side.
    - ii. Other freestanding signs shall not exceed 64 square feet per side.
    - iii. The signs shall not be moving or flashing, and shall not shine into adjacent residential areas.
    - iv. A second freestanding sign can be used on the same lot so long as there is at least 400 feet separation between the signs.
  - c. Wall signs covering up 20% of the wall.

- d. If no freestanding sign is used, a sign projecting from the building face. Such signs shall not project more than four, and shall not exceed an area of eight square feet per face.
  - e. One banner up to 32 square feet in size, or a portable sign up to 12 square feet in size, for up to 30 days to advertise a grand opening.
  - f. One banner up to 32 square feet in size, or a portable sign up to 12 square feet in size, for up to 30 days to advertise other products or events, provided that not more than one banner or portable sign shall be displayed during a 60-day period.
4. H-1 zone. Signs allowed in a C-1 zone shall be allowed in an H-1 zone, so long as the standards of Section 3.290 are complied with.
5. M-1 and M-2 zone. Only the following signs are allowed in an M-1 or M-2 zone:
- a. Signs that are allowed in a C-1 zone.
  - b. One freestanding sign not exceeding 64 square feet.
  - c. A second freestanding sign can be used on the same tax lot so long as there is at least 400 feet separation between the signs.
  - d. Wall signs covering up to 20% of the wall.
  - e. The signs shall not be moving or flashing and shall not shine into adjacent residential areas.
  - f. One banner up to 32 square feet in size, or a portable sign up to 12 square feet in size, for up to 30 days to advertise a grand opening.
  - g. One banner up to 32 square feet in size, or a portable sign up to 12 square feet in size, for up to 30 days, to advertise other products or events, provided that not more than one banner or portable sign shall be displayed during a 60 day period.
6. OLU and GW zone. The following signs are allowed in an OLU or GW zone:
- a. Signs that are allowed in an R-1 zone.
  - b. Wall signs covering up to 5% of the wall.
  - c. A Variance shall be requested for any larger signs.
7. Garage (and similar event) signs. Garage sale signs shall be allowed as follows:
- a. Such signs shall be allowed to advertise a private sale at a property not more than eight days per year.
  - b. The signs shall not exceed six square feet in size.
  - c. The signs can be erected four days before the event and must be removed no later than the day after the event.
  - d. The signs shall not be attached to utility poles or public sign posts.

[Section 5.420 amended by Ordinance No. 780 adopted February 28, 2001.]

(Section 5.420.3 amended by Ordinance No. 833, October 28, 2005)

Section 5.430. Prohibited signs. The following signs are prohibited:

- 1. Signs that conflict with the vision clearance area requirements described in Section 5.130.
- 2. Signs that resemble or may be confused to be official traffic signs.
- 3. Signs attached to a tree, or unauthorized signs attached to a utility pole or public signpost.
- 4. Signs that interfere with pedestrian or vehicular traffic.
- 5. Signs that are a hazard or in a state of disrepair.
- 6. Signs that violate any building or electrical code; e.g., freestanding signs over six feet high require a building permit.
- 7. Roof signs.
- 8. Private signs that are displayed upon public property.

9. Signs that are placed upon private property without the permission of the property owner or person in charge of the property.  
[Section 5.430 amended by Ordinance No. 780 adopted February 28, 2001.]

Site Plan Review Procedures.

Section 5.500. Site Plan Review. Section 5.500 through 5.580 provides standards and procedures for those uses which are subject to site plan review.

Section 5.510. Types of Activities Subject to Site Plan Review. The following activities in conjunction with uses subject to site plan review shall follow the standards and procedures of Section 5.500 to 5.550:

1. Any commercial or industrial use or change of use, for which there is not an approved site plan.
2. The construction of a new multiple-family dwelling with three or more dwelling units or a boarding, lodging, or rooming house.
3. The conversion or expansion of an existing single-family dwelling, two-family dwelling, or other building, to a multiple-family dwelling with three or more dwelling units or to a boarding, lodging, or rooming house.
4. The construction of a building to house a commercial or industrial enterprise, unless that building is either clearly accessory to an existing commercial or industrial enterprise on the site, or it has a floor area of 1,200 square feet or less.
5. The expansion of an existing commercial or industrial structure by over fifty percent of the floor area, or 1,200 square feet, whichever is less.
6. The conversion of a residential structure to a commercial or industrial use.
7. The replacement of one commercial or industrial enterprise by another, when the off-street parking requirements for the new enterprise are greater.

Section 5.520. Contents of Site Plan. The site plan shall contain the following information:

1. Locations, dimensions, and setbacks from property lines, of all proposed buildings, and of existing buildings proposed to remain on the site.
2. The location, surfacing, and width of vehicular access to a public street, of driveways and internal access roads. The location and surfacing of off-street parking and loading areas. Number of parking spaces and a design plan for parking and circulation areas.
3. Lot dimensions and total lot area.
4. Location, dimensions and purposes of all easements.
5. Proposed locations for all utility lines.
6. Proposals for the handling of drainage.
7. For residential uses, the number of dwelling units to be accommodated and the size of each residential unit.
8. Location and specific purpose of all areas to be set-aside for open space and recreation.
9. Plan for buffering, screening, and landscaping.
10. Proposal for exterior lighting.
11. Proposal for the location, size, materials and method of illumination of all signs.
12. Proposal for control of sediment runoff beyond property boundaries, or into the city drainage system.
13. Information on construction phases and construction hours.

14. Proposal for security fencing to restrict the general public from entering onto the work site.

Section 5.530. Decision Criteria for Site Plan Review. Site Plan approval shall be completed prior to occupancy. The site plan shall be approved when all of the criteria listed below have been met:

1. Vehicular access to and from the site is adequate to serve the use and will not result in traffic related problems on the street network in the immediate surrounding area.
2. Off-street parking areas are suitable in terms of size and location to serve the proposed use.
3. The size, design, and operating characteristics of the intended use are reasonably compatible with surrounding development.
4. The utilities and drainage facilities intended to serve the proposed use are adequate to accommodate the proposed use and are reasonably compatible with the surrounding area.
5. The intended use shall be adequately screened or buffered from adjacent or nearby properties.
6. Plans are adequate to control sediment runoff from impacting surrounding properties and the city drainage system.
7. Construction plans meet city noise abatement standards and construction phasing of the project is reasonably compatible with surrounding development.
8. Security measures are adequate to protect the general public from injury on the work site.
9. The intended use shall conform to the requirements and standards of the comprehensive plan. (Amended by Ordinance No. 828, May 11, 2005)

Section 5.540. Conditions of Approval. The commission may also impose the following conditions of approval:

1. Increasing the required lot size, lot width, or setbacks from all property lines.
2. Limiting the height, size, or location of a building or other structure.
3. Controlling the location, number and size of vehicle access points.
4. Increasing the number of off-street parking and loading spaces, and changing the location of parking and loading areas.
5. Requiring fencing, screening or landscaping to protect adjacent or nearby properties.
6. Limiting the number, size, location, and lighting of signs.
7. Expanding or limiting the use of exterior lighting.
8. Designating or expanding sites for open space or for outdoor recreation.
9. Requiring internal improvements, such as utilities, storm drainage, street curbs, gutters, walkways, and bikepaths.
10. Requiring additional measures to insure that sediment runoff is properly controlled.
11. Limiting the hours of construction activity and/or requiring an adjustment of phasing (dates, hours, etc.), for the construction element of the project.
12. Requiring security fencing to restrict the general public from entering onto the work site.
13. Other conditions similar to the above which are consistent with this ordinance, other city ordinances and the policies of the comprehensive plan.

Section 5.550. Process for Review and Action on a Site Plan Review.

1. Application. Two copies of an application and site plan, together with the required fee, shall be submitted to the city, and receive tentative approval, no later than submission of the initial building permit. The application and site plans shall be submitted no later than thirty days prior to the date that the matter is to be considered by the commission.

2. Planning Commission Action. The commission review is subject to the notice requirements of this ordinance and shall be accomplished within 35 days of the date it has been scheduled for review by the commission. The commission will take one of the following actions:

- a. Approve the site plan review application as submitted;
- b. Approve it with conditions or modifications; or
- c. Deny it.

3. Notice. Notice of pending action on a site plan review shall be as required in Section 10.060(2).

4. Appeals. Commission decision on a site plan review may be appealed to the city council in accordance with the provisions of Section 10.060(3).

Section 5.560. Standards Applicable to Residentially Zoned Areas for Site Plan Review.

1. Buffer. A buffer shall be provided on each side of a property which abuts a lot which is zoned for residential purposes. The buffer area shall be a minimum of five feet in width, containing a continuous fence or wall a minimum of three feet in height, supplemented with landscape planting, so as to effectively screen the property from adjoining residential properties.

Buffer areas may not be used for buildings, parking, or driveways, unless the area is the most suitable location for a driveway, but may be used for landscaping sidewalks or pathways and for utility placement.

2. Landscaping.

- a. All areas intended for use as part of the building project, shall be completely and permanently landscaped, except for buildings, areas used for refuse containers, and areas set aside for access driveways, off-street parking, sidewalks and pathways.
- b. All landscaped and buffered areas shall be continually maintained in an attractive manner.

3. Screening of Refuse Containers. Any refuse, recycle container or disposal area visible from a public street or abutting property zoned residential, shall be screened from view by placement of a solid wood, concrete block or similar fence or evergreen hedge at least five feet in height.

4. Fencing. Fences must meet the requirements set forth in Section 5.020.

5. Parking.

- a. Off-street parking shall be provided in compliance with the standards of Section 4.010 through 4.050.
- b. Off-street parking areas shall be set back a minimum of fifteen feet from lot lines abutting a street and ten feet from lots zoned residential.

6. Access Driveways. The driveway with access onto a public street, shall meet the following requirements:

- a. Driveways shall have a width of 10-16 feet for one-way driveways, and 20-32 feet for two-way driveways.
- b. There shall be a minimum separation of 22 feet between driveways.
- c. Driveways will be at least 20 feet from the intersection with a minor street and 30 feet from the intersection with an arterial or collector street.

Section 5.570. Standards Applicable to Commercial and Industrial Site Plan Review.

1. Buffer. Where landscaping is not installed, buffering shall be considered, with the following standards:
  - a. A buffer shall be provided on each side of a property which abuts a lot which is zoned or used for residential purposes, and shall be a minimum of five feet in width.
  - b. The buffer shall contain a continuous fence or wall a minimum of three feet in height, supplemented with landscape planting, so as to effectively screen the property from adjoining residential properties.
  - c. Buffers may not be used for buildings, parking, or driveways, unless there is no other suitable location for a driveway.
  - d. Buffers may be used for landscaping, sidewalks, paths, or utility placement.
2. Landscaping.
  - a. In addition to the buffer requirements above and except as modified in Section "b", landscaping shall be placed and maintained as follows:
    - i. In a C-1 or C-2 zone, landscaping shall comprise at least 3% of the gross property area.(Section 5.570.2. amended by Ordinance No. 833, Oct 28, 2005)
    - ii. In an M-1 zone, landscaping shall comprise at least 2% of the gross property area.
    - iii. In an M-2 zone, landscaping shall comprise at least 1% of the gross property area.
  - b. If the commission finds compliance with Section "a" to be unreasonable, the applicant can mitigate the landscaping requirement by providing artwork or other landscape/park contributions to the betterment of the city.
  - c. All front yards exclusive of accessways, and other permitted intrusions (such as parking lots) shall be landscaped within one year of building occupancy.
  - d. A minimum of 20 percent of the property within 25 feet of residential zoned or used areas shall be completely and permanently landscaped.
  - e. Where appropriate, plans shall be provided to show how landscaping will be irrigated.
3. Fencing. Fences must meet the requirements set forth in Section 5.020.
4. Parking.
  - a. Off-street parking shall be provided in compliance with the standards for Section 4.010.
  - b. Off-street parking shall be set back a minimum of fifteen feet from lot lines abutting a street, and ten feet from lots zoned residential.
  - c. In a commercial zone, or M-1 zone, all areas for parking or maneuvering vehicles shall be hard surfaced.
  - d. In an M-2 zone, all areas for parking or maneuvering vehicles that are within 100 feet of a public street shall be hard surfaced. [Subsections (c) and (d) were added by Ordinance No. 816, adopted July 14, 2004][Subsections (c) and (d) were amended further by Ordinance No. 825, adopted April 13<sup>th</sup>, 2005]
5. Access Driveways. A driveway with access onto a public street shall meet the following requirements:
  - a. Driveways shall have a width of 12-18 feet for one-way driveways and 24-36 feet for two-way.
  - b. There shall be a minimum separation of 24 feet between driveways.
  - c. Driveways shall be at least 25 feet from the intersection with a local street and 35 feet from the intersection with an arterial or collector street.



- d. Points of access from a public street to properties in an industrial zone shall be so located as to minimize traffic congestion and avoid, where possible, directing traffic onto residential streets.
- e. In a commercial zone, all driveways shall be hard surfaced.
- f. In an industrial zone, the first 100 feet of any new driveway, measured from where the driveway intersects with the public street, shall be hard surfaced.
- g. All driveways over 100 feet in length shall be capable of supporting emergency vehicles weighing up to 50,000 pounds, and shall be free of obstacles that would prevent emergency vehicles from using the driveway. (Section 5.570 (5) amended by Ordinance No. 816, July 14, 2004]

#### 6. Screening Standards.

- a. Refuse containers or disposal areas which would otherwise be visible from a public street, customer, or employee parking area, any public facility, or any residential area, shall be screened from view by placement of a sight obscuring fence, wall or hedge a minimum of six feet in height. All refuse material shall be contained within the screened area. No refuse container shall be placed within fifteen feet of a dwelling window.
- b. Building entrances or other openings adjacent to or across the street from a residential zone shall be prohibited if they cause glare, excessive noise, or otherwise adversely affect land uses in the residential zones.
- c. All servicing, processing and storage on property abutting or facing a residential zone, shall be screened from view by a permanently maintained sight-obscuring fence or dense evergreen landscape buffer, at least six feet in height.

Section 5.580. Performance Standards Applicable to the Commercial and Industrial Zones. In an industrial zone, or approved small scale light manufacturing activities in the C-1 zone, uses, and activities subject to site plan review shall meet and continue to comply with the following standards:

- 1. Noise. All noise shall be muffled so as not to be objectionable to a reasonable individual due to intermittence, beat, frequency or shrillness; and, as measured at any property line, shall not exceed those standards set by state statutes and administrative rules.
- 2. Vibration. No vibration, other than that associated with highway vehicles, trains and aircraft shall be permitted which is discernible by a reasonable individual at the property line of the use concerned.
- 3. Smoke and Particulate Matter. It is the intent of this section to provide standards which, regardless of the intensification of industrial activity, will avoid creation of nuisance conditions and will maintain a high ambient air quality level.
  - a. To accomplish this, the discharge of pollutants from any source shall not exceed those levels set by state (Department of Environmental Quality) statutes and rules.
  - b. All measurements of air pollution shall be by the procedures and with equipment approved by the state (Department of Environmental Quality).
- 4. Odors. All odorous gases or matter emitted from any sources, detected by a reasonable person beyond the property line of the sources, are prohibited.
- 5. Heat and Glare. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building. Exterior lighting shall be directed away from adjacent residential zones.
- 6. Insects and Rodents. All materials, including waste which is edible or attractive to rodents or insects, shall be stored outdoors only in closed containers, and all grounds

shall be maintained in a manner which will not attract or aid the propagation of rodents or insects or create a health hazard.

**Section 5.600. Conditions to Development Proposals that Impact Transportation Facilities.** Development proposals that may significantly impact transportation systems should be reviewed to determine if the impact will be inappropriate, and if there is a way to minimize the impact.

1. The proposed development shall not impose an undue burden on the public transportation system. For developments that are likely to generate more than 400 average daily motor vehicle trips (ADTs), the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding street system. The developer shall be required to mitigate impacts attributable to the project.
2. The determination of impact or effect, and the scope of the impact study, should be coordinated with Linn County if a county road is impacted or the State of Oregon if a state highway is impacted.
3. Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways shall be required where the existing transportation system will be impacted by, or is inadequate to handle, the additional burden caused by the proposed use.
4. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that are necessary because of the proposed use shall be required where the existing transportation system may be burdened by the use. (Amended by Ordinance 828, adopted May 11, 2005)

## **ARTICLE VI** **Nonconforming Uses and Structures**

**Section 6.010. Continuation of Nonconforming Use or Structure.** Subject to the provisions of Article VI, a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is permitted.

**Section 6.020. Nonconforming Structure.** Except for signs, a structure conforming as to use, but nonconforming as to height, setback or coverage, may be altered or extended, providing the extension does not exceed the height, setback or coverage requirements of this ordinance.

A nonconforming sign shall not be altered or extended except to make it comply with the requirements of this ordinance.

**Section 6.030. Discontinuance of a Nonconforming Use.** If a nonconforming use involving a structure is discontinued from active use for a period of one year, further use of the property shall be for a conforming use.

**Section 6.040. Change of a Nonconforming Use.** If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the zone and, after change, it shall not be changed back to a nonconforming use.

**Section 6.050. Destruction of a Nonconforming Use.** If a nonconforming structure or a structure containing a nonconforming use, is destroyed by any cause to an extent

exceeding eighty per cent of the value of the structure, a replacement structure or use of the property shall comply with the provisions for a conforming use in the zone.

The value of the structure for purposes of this section shall be determined by establishment of its replacement cost using current values for labor and materials.

## **ARTICLE VII** **Conditional Uses**

Section 7.010. Purpose of Conditional Use Procedure. A conditional use is a use of land or a structure, which is normally appropriate, desirable, or necessary in a zone where it is permitted, but which, by virtue of a feature of that use, could create a problem within the area such as excessive height or bulk, congestion, a potential nuisance, or a health or safety hazard. It is the intent of this Section to provide standards and procedures so that uses which are classified as conditional can fit into a particular zone in a manner which safeguards the best interests of surrounding property, the neighborhood, and the city.

Section 7.020. Authorization to Grant or Deny Conditional Uses. Conditional uses listed in this ordinance may be permitted, altered, or enlarged by authorization of the commission in accordance with the standards and procedures set forth in Sections 7.010 through 7.040 of this ordinance.

1. In taking action on a conditional use permit application, the commission may either:
  - a. Approve;
  - b. Approve with conditions; or
  - c. Deny the application.

A decision by the Commission may be appealed to the city council as outlined in Section 10.060(3).

2. The decision to approve or deny a conditional use shall be based on the following criteria:
  - a. The location, size, design and operating characteristics of this proposed development are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
  - b. The proposed development site has the physical characteristics needed to support the use, considering factors such as potential drainage problems and access to a public street.
  - c. The proposed development will not unduly affect the capacity of current public facilities, including streets and utility systems.
  - d. The proposed development is consistent with the goals and policies of the comprehensive plan.

Section 7.030. Additional Standards and Requirements May be Imposed. In approving a conditional use, the commission may impose, in addition to those standards and requirements expressly specified by this ordinance, additional conditions, which the commission considers necessary to protect the appropriate development and best interests of the surrounding area, the neighborhood, and the city. These conditions may include, but are not limited to, the following:

1. Increasing the required lot size, lot width, or yard dimensions.
2. Limiting the height, size, or location of a building or other structure.
3. Controlling the location and number of vehicle access points.
4. Increasing the number of required off-street parking or off-street loading spaces.

5. Increasing the street width.
6. Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
7. Limiting the number, size, location, or lighting of signs.
8. Designating sites for open space or outdoor recreation areas.
9. Limiting the manner in which the use is conducted, including restricting the time an activity may take place and providing restraints to minimize negative environmental effects, such as noise, vibration, air pollution, glare and odor.
10. Setting a time limit for which the conditional use is approved.
11. Providing internal property improvements, such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, fencing, screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property.
12. Other conditions necessary to permit the development of the city in conformity with the intent and purposes of this ordinance and the policies in the comprehensive plan.

Section 7.040. A Use Pre-existing to the Ordinance Date. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, the change in use or in lot area, or the alteration or enlargement of the structure shall conform with the requirements for conditional use.

Section 7.050. Performance Bond or Contractual Agreement.

1. The commission may require that the applicant for a conditional use furnish the city a performance bond, or similar contractual arrangement of up to the value of the cost of the improvement to be guaranteed, in order to assure that the conditional use is completed according to the plans as approved by the commission.
2. The commission may require that an applicant for a conditional use enter into a contractual agreement with the city to assure that the applicant will provide streets, curbs, gutters, sidewalks, water, sewer and drainage facilities that meet city standards.

Section 7.060. Standards Governing Conditional Uses. A conditional use shall comply with the standards of the zone in which it is located except as these standards may have been modified in authorizing use or as otherwise provided as follows:

1. Setback. In a residential zone, yards shall be at least 2/3 the height of the principal structure. In any zone, additional yard requirements may be imposed.
2. Height exception. A church or governmental building may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed 1 ½ times the area of the site and if the yard dimensions in each case are equal to at least 2/3 of the height of the principal structure.
3. Limitation on access to property and on openings to buildings. The city may limit or prohibit vehicle access from a conditional use to a residential street; and it may limit or prohibit building openings within 50 feet of residential property in a residential zone, if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.
4. Signs. In the case of a conditional use, the sign limitations of a zone may be exceeded to allow one directly illuminated sign or non-illuminated sign, not more than six square feet in area, on each side of a structure abutting a street.

In addition, a church may have a bulletin board not exceeding 25 square feet in area. Said sign shall pertain to the conditional use and may be located in required yards.

Types of Activities Subject to Conditional Uses.

Section 7.100. Schools.

1. Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet high, shall separate the play area from the abutting lots.

2. Schools with students in grades kindergarten through fifth grade shall provide one acre of site area for each 80 pupils or one acre for every 2.75 classrooms, whichever is greater.

Section 7.120. Utility Station or Substation. In the case of a utility station or substation, the city may waive the minimum lot size requirement only if it is determined that the waiver will not have a detrimental effect on adjacent property.

Section 7.130. Temporary Medical Hardship, Manufactured Dwelling (MD). A permit for the temporary placement of a MD on a lot with a permanent residential structure, for the purpose of meeting the temporary medical hardship circumstances of a relative, shall be allowed under the following conditions:

1. An application shall be completed annually. For any Temporary Medical Hardship created after April 1, 2002, an application fee of \$100 shall be paid, with the fee increasing \$100 each year to a maximum of \$500 at the fifth year and every year thereafter.
2. Each application shall be accompanied by a letter from a licensed medical doctor stating that a medical hardship exists and that the afflicted person requires daily supervision, care, or assistance. The letter shall state the medical reasons for the need.
3. For these purposes, a relative shall be a person related by blood or marriage who is a grand parent, parent, child, brother or sister. The afflicted person shall be at least 65 years of age, unless the Planning commission determines circumstances that justify granting the permit to a person of lesser age. (Amended by City council motion 5-8-2002).
4. If the afflicted person is married and the spouse is capable of providing the daily supervision, care or assistance the afflicted person requires, then a temporary medical hardship permit shall not be granted; however, if the spouse is also afflicted or unable to provide daily supervision, care or assistance to the afflicted person, then the spouse can reside in the MD. No other person should occupy the MD.
5. The temporary MD shall be sited on the same lot with a permanent residential structure.
6. The temporary MD will comply with all applicable zoning ordinance standards or the appropriate variances shall be obtained.
7. The temporary MD shall have connection to water supply and sewage disposal systems which have been approved by the City. Hook up fees shall be paid for any new connection to the City system; however, they shall not be required if the connection is to the property owner's private system.
8. The temporary MD shall be situated on the lot so as to have the least possible visual exposure from the adjoining streets.
9. No Systems Development Charge shall be assessed for the MD.
10. The owner of the property upon which the MD will be placed shall be an owner of the MD, with a right of survivorship.

11. The owner of the lot upon which the temporary MD is to be placed, or other responsible person, shall remove the MD within 90 days after the hardship ceases, unless additional time is granted by the Planning Commission.

12. If the MD remains on the property beyond the time specified above, or after a permit has expired, it shall be considered a violation of this ordinance.

[Section 7.130 amended by Ordinance No. 795, adopted on April 24, 2002]

Neighborhood Commercial Zone (NC).

Section 7.200. Purpose. The purpose of this overlay zone is to provide an opportunity for small-scale commercial uses within residential neighborhoods. These uses are intended to provide shops and services in close proximity to residences to reduce automobile travel and encourage walking.

Section 7.210. Permitted Neighborhood Commercial Uses. The following Neighborhood Commercial Use shall be permitted when the Conditional Use and the Site Plan Review standards and requirements are met:

1. Bakery.
2. Barber shop.
3. Beauty shop.
4. Clothes cleaning or laundry pick-up agency, including pressing.
5. Confectionery.
6. Drug store, including fountain.
7. Florist shop.
8. Frozen food locker, excluding wholesale storage.
9. Garden store.
10. Grocery store, including meat market.
11. Hardware store.
12. Laundry and cleaning, self-service.
13. Office or clinic for the following:
  - a. Accountant.
  - b. Architect or designer.
  - c. Attorney at law.
  - d. Dentist.
  - e. Doctor or other practitioner of the healing arts.
  - f. Engineer or surveyor.
  - g. Insurance agent.
  - h. Real estate agent.
14. Variety or dry goods store.
15. Automobile service station.
16. Sales, repair or service shops to accommodate the following:
  - a. Appliance sales and service.
  - b. Bicycle sales and service.
  - c. Catering service.
  - d. Computer or telephone sales and service.
  - e. Radio or television sales and service.
  - f. Sewing machine sales and service.
  - g. Shoe repair.
  - h. Typewriter sales and service.
  - i. Upholstery: automobile and furniture.
  - j. Other uses found similar to (a) through (k)

- k. Eating establishment, which meets all the following limitations:
  - i. Has a maximum seating capacity of 50 or fewer persons, and
  - ii. Excludes provision of drive-in service, and
  - iii. Excludes the serving of alcoholic beverages.
- 17. Transit Park and Ride.

Section 7.220. Limitations on Neighborhood Commercial Uses. The following conditions and limitations apply:

1. The maximum floor area of each separate use confined within enclosing walls shall be 4,000 square feet.
2. All business, sales, service, repair, processing, and storage, including refuse and garbage storage, shall be conducted wholly within enclosed buildings except the display of plants and off-street parking and loading.
3. Items produced or wares and merchandise handled shall be limited to those sold at retail on the premises.

Section 7.230. Signs in Neighborhood Commercial Zone. Refer to Sign Regulations in Section 5.400 to 5.430.

Section 7.240. Lot sizes in Neighborhood Commercial Zone.

1. The minimum lot area shall be 7,000 square feet.
2. The minimum lot width at the front building line shall be 60 feet.
3. The minimum lot depth shall be 90 feet.

Section 7.250. Setback Requirements in Neighborhood Commercial Zone.

1. The minimum yard along a street, other than an alley, shall equal the front yard required in the least restricted adjacent residential zone.
2. Minimum side and rear yards of ten feet shall be required for those portions of a lot, abutting a residential zone.

Section 7.260. Height of Buildings in Neighborhood Commercial Zone. Neighborhood commercial structures shall not exceed a height of one story or 35 feet, whichever is less.

Section 7.270. Lot Coverage in Neighborhood Commercial Zone. Neighborhood commercial structures shall not occupy more than 80 percent of the lot area.

## **ARTICLE VIII** **Variances**

Section 8.010. Authorization to Grant or Deny Variances. The commission may authorize variances 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 created to allow the use of property for purposes not authorized within the zone in which the proposed use would be located.

Section 8.020. Criteria for Granting a Variance. A variance may be granted only in the event that all of the following criteria exist:

1. Unique or extraordinary circumstances apply to the property which do not generally apply 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 the enactment of this ordinance have no control.
2. The variance is necessary for the preservation and enjoyment of the same property rights as possessed by owners of other property in the same zone.
3. The variance is consistent with the goals and policies in the comprehensive plan.

Section 8.030. Conditions of Approval. 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. Such conditions shall apply to the applicant for the variance and to any subsequent purchaser, renter, lessee, or owner of the subject property.

### **ARTICLE IX** **Amendments**

Section 9.010. Authorization and Procedure for Initiating Amendments.

1. A request for amendment of this ordinance may be initiated by:
  - a. The city council,
  - b. The planning commission,
  - c. City staff,
  - d. A property owner, a group of property owners, or the authorized agent of the owner(s) for property which is owned by the owner or owners, or
  - e. Any affected citizen or property owner within the Harrisburg Urban Growth Boundary for an amendment to the text of this ordinance.
2. The request by a property owner or his authorized agent shall be accomplished by filing an application with the city recorder using a form prescribed pursuant to Section 10.070. A filing fee in accordance with the provisions of Section 10.080 shall accompany an application by a property owner or his authorized agent for an amendment.

Section 9.020. Public Hearings on Amendments. All requests for amendment to the text or the zoning map of this ordinance shall comply with the following public hearing procedures:

1. The commission shall conduct a public hearing concerning the proposed amendment in accordance with the notice provisions of Section 10.070. The hearing shall be held at least 35 days after receipt of the application for amendment.
2. The commission shall, within 63 days of the first hearing, recommend to the city council either approval, disapproval, or modification of the proposed amendment.
3. After receiving the recommendation of the commission, the city council shall hold a public hearing on the proposed amendment in accordance with the notice provisions of Section 10.100.
4. The council shall render a final decision on the amendment request within 90 days of receipt of the commission recommendation. Prior to the final decision on adoption of the ordinance amendment, the amendment shall be submitted to the Department of Land Conservation and Development in accordance with the procedures of OAR 660-18-000, as amended.
5. In issuing its final decision, the council may approve or deny modifications.



6. Within five days after a decision has been rendered with reference to an amendment, the city shall provide the applicant and all other parties having participated in the public hearing with written notice of the decision. This procedure shall apply to recommendations made by the commission and to final action made by the city council.

7. In taking action on a request to amend the text or map of the zoning ordinance, the commission and city council shall determine that the amendment is consistent with the policies of the comprehensive plan and with the comprehensive plan map.

Section 9.030. Record of Amendments. The signed copy of an amendment to the text and map of this ordinance shall be maintained without change on file in the office of the city recorder. The city recorder shall maintain a record of amendments to the text and map of this ordinance in a form convenient for the use of the public.

## **ARTICLE X** **Administrative Provisions**

Section 10.005. Land Use Amendment Affect on a Transportation Facility.

1. A comprehensive plan or land use amendment significantly affects a transportation facility if it:
  - a. Changes the functional classification of an existing or planned transportation facility;
  - b. Changes standards implementing a functional classification system;
  - c. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
  - d. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.
2. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
  - a. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
  - b. Amending the Transportation System Plan to ensure that existing, improved, uses consistent with the requirements and goals of the comprehensive plan; or,
  - c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(Amended by Ordinance No. 828, Adopted May 11, 2005)

Section 10.010. Enforcement. The zoning official shall have the power and duty to enforce the provision of this ordinance. An appeal from a ruling of the zoning official shall be made to the commission.

Section 10.015. Permits. No building or other structure subject to any of the provisions of this ordinance shall be erected, moved, reconstructed, extended, enlarged, or altered without having first obtained from the zoning official a permit to do so, upon compliance with this ordinance and all other applicable ordinances, state laws, and other regulations.

Section 10.020. Building Permits for an Approved Conditional Use or Variance.

Building permits for all or any portion of an approved conditional use or variance shall be issued only on a basis of the plan for the conditional use or variance as approved by the commission.

Any proposed change in the approved plan shall be submitted to the planning commission as a new application for the conditional use or variance.

Building permits involving an approved conditional use or variance shall not be issued until the appeal period as specified under Section 10.050 has passed.

Section 10.030. Time Limit on an Approved Conditional Use or Variance Application.

Authorization of a conditional use or variance shall be void one year after the date of approval of the application, or such lesser time as the authorization may specify, unless a building permit has been issued and substantial construction pursuant thereto has taken place, or unless a use not involving construction has been initiated in some substantial manner.

However, upon written request, the commission may extend authorization for an additional period not to exceed one year.

Section 10.040. Termination of a Conditional Use or Variance. A conditional use or a variance may be revoked, suspended, or modified by the commission after public hearing, on any one or more of the following grounds:

1. Approval of the conditional use or variance was obtained by fraud or misrepresentation.
2. The use for which approval was granted has ceased to exist.
3. The use does not meet the conditions specifically established for it at the time of approval of the application.
4. The use is in violation of any provision of this ordinance or any other applicable statute, ordinance, or regulation, not covered by the conditional use or variance.

Section 10.050. Limitation on Requests for Action. No request for a conditional use, variance, or zoning amendment shall be considered by the commission within a one year period immediately following denial of such request, except the commission may consent to a new hearing, if in the opinion of the commission new evidence of a change of circumstance warrants it.

Section 10.055. Notice to County or State Required When Street Impacted. If a proposed development may generate more than 400 average daily motor vehicle trips on a county road or state highway, the Linn County Roadmaster for Linn County or the Oregon Department of Transportation for the State of Oregon shall be notified of the proposed development. The notice shall be mailed or otherwise provided at least 20 days before a hearing wherein the proposed development may be approved. The notice shall include:

1. The project location,
2. The proposed land use action,
3. The location of project access points,
4. Any additional information that will help the public agency assess the proposal, such as:
  - a. Distances to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation on both sides of the property.

- b. Number and direction of lanes to be constructed on the driveway, plus striping plans;
- c. All planned transportation features like lanes, signals, bikeways, sidewalks, and crosswalks;
- d. Trip generation data or appropriate traffic studies;
- e. Parking and internal circulation plans for vehicles and pedestrians;
- f. Plat map showing property lines, right-of-way, and ownership of abutting properties; and
- g. A detailed description of any requested variance; and,
- h. The date, time and location of the hearing.

(Amended by Ordinance No. 828, adopted May 11, 2005)

### Section 10.060. Land Use Action: Decisions and Appeals.

1. Findings. The review body shall make a decision and adopt findings based upon the information accompanying the application, staff report, and/or evidence presented at the hearing. The findings shall address:

- a. Applicable ordinance criteria.
  - b. For approval, a statement of the facts establishing compliance with each applicable criteria.
  - c. For denial, a statement of the facts establishing non-compliance with any require criteria.
- d. Concluding motion(s) to approve or deny.
- e. Final action shall be when both a decision has been rendered and Findings of Fact, supporting that decision is approved.

#### 2. Notice of Decision.

- a. Within 5 days of final action (Decision and Adoption of Findings of Fact) on a land use application, written notice of the decision shall be provided to the applicant and any other parties entitled to notice. The notice shall state:
  - i. The effective date of the decision;
  - ii. The decision;
  - iii. Describe the right of appeal; and
    - iv. Summarize the reasons for the decision and any conditions of approval, or indicate where such can be reviewed in detail.
- b. Final action on all land use requests shall be made within 120 days of receipt of a completed application. However, by agreement with the applicant, this deadline may be extended for any reasonable length of time.

#### 3. Appeal Procedures.

- a. An affected party may request a public hearing on a tentative land use decision. A decision of a lower reviewing body may be appealed to a higher reviewing body by an affected party by filing a "Notice of Appeal" within 10 days, with the city recorder, after the decision has been mailed or delivered to the applicant and other eligible parties.
- c. The city council may order a de novo review of any lower level decision. Such review shall be conducted in accordance with appeal procedures as specified herein.
- d. For any appeal proceeding, notice will be provided in the same manner as provided for the original decision to those testifying and any other parties to the proceedings who request notice in writing.
- e. A decision of the city council may be appealed to the Land Use Board of Appeals (LUBA) by filing a notice of intent to appeal with LUBA not later than 21 days after the decision becomes final.

4. Requirements of Notice of Appeal. A "Notice of Appeal" shall contain:
  - a. An identification of the decision sought to be reviewed, including the date of the decision.
  - b. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings.
  - c. The specific criteria relied upon for review.
  - d. If de novo review is requested, a statement summarizing the new evidence, which will be offered and the criteria to which it will relate.
5. Scope of Review. The reviewing body shall determine the scope of review on appeal to be one of the following:
  - a. Restricted to the record made on the decision being appealed.
  - b. Limited to such issues as the reviewing body determines necessary for a proper resolution of the matter.
  - c. A de novo hearing on the merits.
6. Review of the Record.
  - a. The reviewing body may hear the entire matter on the record or it may admit additional testimony and other evidence in a de novo hearing.
  - b. When the reviewing body requests a review on the record, the record shall include:
    - i. A factual report prepared by city staff;
    - ii. All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and received or considered in reaching the decision under review; and
    - iii. The minutes of the hearing.
  - c. The reviewing body may make its decision based only upon the record, or may grant the right of oral argument, to all affected parties but not the introduction of additional evidence.
7. De Novo Hearing. "De Novo Hearing" shall mean a hearing by the review body as if the request had not been previously heard and as if no decision had been rendered, except that all testimony and other material from the record of the previous consideration may be included in the record of the review.
8. Reviewing Body Decision.
  - a. Upon review, the reviewing body may affirm, remand, reverse, or modify in whole or part, a determination or requirement of the decision that is under review.
  - b. When the reviewing body modifies or renders a decision that reverses a decision of the reviewing body, the reviewing body shall set forth its findings and state its reasons for taking the action.
  - c. If the reviewing body elects to remand the matter back to the previous reviewing body for such further consideration as the reviewing body deems necessary, it may include a statement explaining the errors found to have materially affected the outcome of the original decision and the action necessary to rectify such.

#### Section 10.070. Form of Petitions and Applications.

1. Petitions and applications required by this ordinance shall be made on forms provided for the purpose, or as otherwise prescribed by the city, to assure the fullest practical presentation of pertinent facts and to maintain a permanent record.
2. Applications shall be accompanied by plans and specifications, drawn to scale, showing:
  - a. The actual shape and dimensions of the lot to be built upon;
  - b. The sites and locations on the lot of all existing and proposed structures;
  - c. The intended use of each structure;

- d. The number of families, if any, to be accommodated thereon;
- e. The relationship of the property to the surrounding area; and
- f. Such other information as is needed to determine conformance with this ordinance.

3. If an application for a permit or zone change is incomplete, the city shall notify the applicant of exactly what information is missing within 10 days of the time of submittal and the applicant shall have 30 days to submit the missing information. The application shall be deemed complete when the missing information is received and accepted by the city.

Section 10.080. Fees. The city council shall, by resolution, determine application fee schedules for those land use actions, which require a fee. The fee shall be paid upon filing the application and shall be refundable only if no action has been taken by the city to initiate proceedings for a public hearing.

In the event that the land use request involves complex issues that require formal engineering or legal consideration, the fees for those services may be charged to the applicant, over and above the fees set by resolution.

#### Section 10.090. Consolidation of Procedures.

1. Except as provided in subsection 2 below, decisions on land use actions which involve more than one application shall be handled under a consolidated review procedure in which all applications shall be decided on in one proceeding.

However, if any of the applications require city council action, the council shall take final action on all of the applications.

2. Plan map amendments are not subject to the 120 day decision making period prescribed by state law; therefore, the city shall not be required to consolidate a plan map amendment and a zone change or other permit applications requested unless the applicant requests the proceedings be consolidated and signs a waiver of the 120 day time limit.

3. If the proceedings are consolidated:

- a. The notice of public hearing shall identify each action to be taken;
- b. The decision on a plan map amendment shall precede the decision on the proposed zone change and other actions; and
- c. Separate action shall be taken on each application.

#### Public Meeting Requirements.

##### Section 10.100. Notice of Public Meeting.

1. Notification. Each notice of public meeting shall be mailed to the applicant and to all owners of the property located within 100 feet of the exterior boundaries of the property.

2. For the purpose of notification, names and addresses of property owners shall be obtained from the records of the County Assessor's most recent property tax assessment roll.

3. For the purpose of mailing notices of public meeting, the city recorder shall prepare the list of property owners of record.

4. Notification Time Limit. The notice of public meeting shall be mailed at least ten days prior to the date of meeting, except for site plan review.

5. Site Plan Review Notification Time Limit. A notice of pending decision on a site plan review application shall be mailed to the applicant and property owners of abutting property or property across a street, alley or railroad track from the property, at least twenty days prior to the date of pending decision.

6. Prepare Affidavit. For each public meeting, the city recorder shall prepare an affidavit of notice, which certifies that the notice of public meeting was mailed to owners of property as required by this ordinance. The list of owners, together with their addresses, shall be attached to the affidavit. The affidavit shall be signed and retained with the permanent record of the meeting.

7. Failure of a person to receive a timely notice provided by the city in accord with this section shall not impair the validity of this decision.

8. The notice provisions of this section shall not restrict the giving of notice by other means, including mail or the posting of property.

#### Public Hearing Requirements.

##### Section 10.120. Notice of Public Hearing.

1. Publication Notice. Each notice of public hearing authorized by this ordinance shall be published in a newspaper of general circulation in the city, ten days prior to the date of the hearing.

2. Notification of Amendment to Zoning Map. A notice of hearing on an amendment to the zoning map shall be mailed to the applicant and to all owners of property located within not less than 300 feet from the exterior boundaries of the property for which the zoning map amendment has been requested.

3. Notification on a Conditional Use or Variance. A notice of hearing on a conditional use or a variance shall be mailed to the applicant and to all owners of property located within 100 feet of the exterior boundaries of the property for which the variance or conditional use has been requested.

4. For the purpose of notification, names and addresses of property owners shall be obtained from the records of the County Assessor's most recent property tax assessment roll.

5. For the purpose of mailing notices of public hearing, the city recorder shall prepare the list of property owners of record.

6. Prepare Affidavit. For each public hearing, the city recorder shall prepare an affidavit of notice, which certifies that the notice of public hearing was mailed to owners of property as required by this ordinance. The list of owner, together with their addresses, shall be attached to the affidavit. The affidavit shall be signed and retained with the permanent record of the hearing.

7. Failure of a person to receive a timely notice provided by the city in accord with this section shall not impair the validity of the decision.

8. The notice provisions of this section shall not restrict the giving of notice by other means, including mail or the posting of property.

#### Public Hearing or Public Meeting Notices.

Section 10.130. Explanation in Public Hearing or Public Meeting Notice. The notice of public hearing or public meeting, provided to the applicant and to owners of property entitled to receive notice shall:

1. Explain the nature of the application and the proposed use or uses which could be authorized.
2. List the applicable criteria from the ordinance and the comprehensive plan that apply to the application.
3. Set forth the street address or other geographical reference to the subject property.
4. State the date, time, and location of the hearing or meeting.

5. State that failure of an issue to be raised in a hearing or meeting, either in person or by letter, or failure to provide sufficient specificity to afford the decision making body an opportunity to respond to the issue precludes an appeal to the State Land Use Board of Appeals (LUBA) based on that issue.

6. Include the name and telephone number of the city staff person who can provide additional information.

7. State that the application and all documents and evidence are available for inspection at city hall at no cost, and that these materials will be provided at a reasonable cost.

8. Include an explanation of the requirements for submission of testimony and the procedure for conduct of the hearing or meeting.

9. State that a copy of the staff report, when one is prepared, will be available for inspection at no cost at least seven days prior to the hearing or meeting, and will be provided at reasonable cost.

### Public Hearing Procedures.

#### Section 10.140. Public Hearing Procedures.

1. The city of Harrisburg shall make available to all participants in the public hearings required by this ordinance, an outline of the procedure to be used in the conduct of the hearings.

2. At the commencement of a public hearing a statement shall be made to those in attendance that:

- a. the applicable substantive criteria;
- b. States that testimony and evidence must be directed toward the criteria which applies to the decision; and
- c. States that failure to raise an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue.

3. All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time the mailed notice of public hearing is provided.

4. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the 120-day time limit as specified in Section 10.160.

5. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the 120-day time limit as specified in Section 10.160.

6. When the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony, or criteria for decision-making which apply to the matter at issue.

7. The failure of a property owner to receive notice of a public hearing shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given.

8. An issue which may be the basis for an appeal to LUBA shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the city. Such issues shall be raised with sufficient specificity so as to afford the city

council or planning commission, and the parties, an adequate opportunity to respond to each issue.

Section 10.160. 120-Day Time Limit. The city shall make a final decision on all land use actions authorized by this ordinance within 120 days from the time application is deemed complete except:

1. The period may be extended for a reasonable length of time at the request of the applicant.
2. The 120-day time limit only applies to a decision wholly within the authority and control of the city.
3. The 120-day time limit does not apply to an amendment to the zoning ordinance text or map if an amendment to the comprehensive plan text or map is also required.
4. The 120-day time limit does not apply to applications governed by ORS 443.450.

Section 10.170. Interpretation. The provisions of this ordinance shall be held to the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this ordinance are less restrictive than comparable conditions imposed by any other provision of this ordinance or of any other ordinance, resolution, or regulation, the provisions which are more restrictive shall govern.

Section 10.180. Severability. The provisions of this ordinance are hereby declared severable. If any section, sentence, clause, or phrase of this ordinance is adjusted by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 10.190. Official Action. All officials and employees of the City vested with authority to issue permits, certificates, licenses, or grant approvals, shall adhere to and require conformance with this ordinance and shall issue no permit, certificate, license or grant approval for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this ordinance. Any permit, certificate, license, or approval issued or granted in conflict with the provisions of this ordinance, intentionally or otherwise, shall be void.

Section 10.200. Inspection and Right of Entry. Whenever they shall have reasonable cause to suspect a violation of any provision of this ordinance, or when necessary to investigate an application for or revocation of any approval under any of the procedures prescribed in this ordinance, officials responsible for enforcement or administration of this ordinance, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No premises shall be entered without first attempting to obtain the consent of the owner or occupant. If consent cannot be obtained, the responsible official shall secure a search warrant before further attempts to gain entry and shall have recourse to every other remedy provided by law to secure entry.

Section 10.210. Abatement. Any use which is established, operated, erected, moved, altered, enlarged, painted or maintained contrary to this ordinance shall be and is hereby declared to be unlawful and a public nuisance, and may be abated as such.

Section 10.220. Penalty. A person violating a provision of this ordinance shall, upon conviction, be punished by a fine of not more than \$500.00 for such offense. A violation



of this ordinance shall be considered a separate offense for each day the violation occurs.

Section 10.230. Alternative Remedies. In case a building or other structure is located, constructed, maintained, repaired, altered, or used, or land is used in violation of this ordinance, the structure or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this ordinance, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.

Section 10.240. Repeal. Ordinance No. 386, enacted September 1969; Ordinance No. 396, enacted May 10, 1972, Ordinance No. 403, enacted May 9, 1973, Ordinance No. 408, enacted November 20, 1974, Ordinance No. 450, enacted August 24, 1977, Ordinance No. 468, enacted November 29, 1978, Ordinance No. 477, enacted March 10, 1980, Ordinance No. 483, enacted June 24, 1980, Ordinance No. 484, enacted June 24, 1980, Ordinance No. 485, enacted June 24, 1980, Ordinance No. 487, enacted October 28, 1980, Ordinance No. 503, enacted February 10, 1982, Ordinance No. 506, enacted May 12, 1982, Ordinance No. 509, enacted July 14, 1982, Ordinance No. 543, enacted September 14, 1987, Ordinance No. 548, enacted April 13, 1988, Ordinance No. 558, enacted September 14, 1988, Ordinance No. 559, enacted January 11, 1989; Ordinance No. 561, enacted December 14, 1988, Ordinance No. 569, enacted July 12, 1989, Ordinance No. 577, enacted April 11, 1990, Ordinance No. 579, enacted May 9, 1990, Ordinance No. 598, enacted April 10, 1991, Ordinance No. 619, enacted August 12, 1992, Ordinance No. 631, enacted March 10, 1993, Ordinance No. 644, enacted March 9, 1994, Ordinance No. 645, enacted March 9, 1994, Ordinance No. 646, enacted May 11, 1994; Ordinance No. 647, enacted June 8, 1994, Ordinance No. 649, enacted June 22, 1994, Ordinance No. 650, enacted July 13, 1994, Ordinance No. 702, enacted December 13, 1995; Ordinance No. 710, enacted April 10, 1996, and Ordinance No. 718, enacted June 12, 1996; are hereby repealed.

Section 10.250. Effective Date of This Ordinance. This ordinance shall take effect on the thirtieth day after its enactment by the council.

Adopted January 12, 2000