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TITLE 11 ZONING

CHAPTER 11.01 INTRODUCTORY PROVISIONS

11.01.010 TITLE

This Title shall be known as the "Zoning Ordinance of the City of Nyssa, Oregon", and the Map herein referred to shall be known as the "Zoning Map of the City of Nyssa, Oregon"

11.01.020 PURPOSE AND OBJECTIVES

The Zoning Ordinance is adopted to protect and promote the public health, safety, convenience, and general welfare. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

- (A) To provide a guide for the physical development of the City.
- (B) To promote an orderly growth of the City.
- (C) To encourage the most appropriate use of the land.
- (D) To conserve and stabilize the value of property.
- (E) To aid in the rendering of fire and police protection.
- (F) To maintain a suitable balance between structures and open space on each site.
- (G) To facilitate adequate provisions of community facilities.
- (H) To preserve the natural beauty of the City.

11.01.030 DEFINITIONS

For the purposes of this Title, all words in the present tense shall include the future; all words in the singular number shall include the plural; the masculine shall include the feminine and neuter; and the word "shall" is mandatory. The following words and terms are construed and defined as follows:

ACCESS:	The place, means or way by which pedestrians, vehicles or utilities shall have safe ingress or egress to a property, use or parking space.
ACCESSORY STRUCTURE OR USE:	A structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use. A home occupation is an accessory use.
AFFECTED AREA:	Property within the area of a subject property. Specifically, that area within two hundred feet (200'), including streets and alleys.
ALLEY:	A narrow service way through a block designed only for trade vehicle access to the back or side of properties otherwise abutting on another street. An alley is not to be construed as a primary entrance to a garage, carport or property entrance.
BOARDING, LODGING, OR ROOMING HOUSE:	A building where lodging with or without meals is provided for compensation for not less than three (3) guests.
BUILDING:	A structure built for the support, shelter or enclosure of persons, animals or property and includes any roof extension for carport or patio, overhang, canopies, gutters, chimneys and other similar architectural features.

CITY:	City of Nyssa, Oregon.
COMMISSION:	The Nyssa Planning Commission.
DWELLING, DUPLEX:	A detached building containing two (2) dwelling units.
DWELLING, MULTI-FAMILY APARTMENT:	A detached building containing three (3) or more dwelling units.
DWELLING, SINGLE-FAMILY:	Two (2) or more rooms designed for occupancy by one family and not having more than one cooking facility.
DWELLING, THREE-PLEX OR FOUR-PLEX:	A detached building containing three (3) or four (4) dwelling units, respectively.
FAMILY DAY CARE PROVIDERS:	A day care provider which accommodates fewer than 13 children in the provider's home is considered to be a residential use.
FENCE, SIGHT OBSCURING:	A fence or 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.
GARAGE, PRIVATE:	An accessory building or portion of a main building used for the parking or temporary storage of vehicles used by occupants of the main building and accessible from a street but not an alley.
GARAGE, PUBLIC:	Used for the repair of motor vehicles or where such vehicles are parked or stored for compensation or sale.
GRADE (GROUND LEVEL):	The average of the finished ground level at the center of all exterior walls of the building.
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.
HOME OCCUPATION:	A lawful activity commonly carried on within a dwelling by members of the family occupying the dwelling provided that: <ul style="list-style-type: none"> (A) The residence character of the building is maintained. (B) The activity occupies less area than one quarter (1/4) of the ground floor area of the main building. (C) The activity, such as a rock shop, seamstress, clock repair, certified public accountant, gunsmith or other similar types of business where traffic is minimal is connected in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term, nor infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their homes, including infringing upon parking rights and electrical or noise interference.
HOSPITAL:	An establishment which provides sleeping and eating facilities to persons receiving

	medical, obstetrical or surgical care and nursing service on a continuous basis.
LOADING SPACE:	An off-street space within a building or on the same lot with a building for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which space has access to a street.
LOT:	A parcel or tract of land.
LOT AREA:	The total horizontal area within the boundary lines of a lot.
LOT, CORNER:	A lot abutting on two (2) intersecting streets other than an alley.
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, 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 a street other than an alley. Every front lot line must abut a street for a minimum of twenty five feet (25').
LOT LINE, REAR:	A lot line which is opposite and more distant from the front lot line, and in the case of an irregular, triangular or other shaped lot, a line ten feet (10) in length within the lot parallel to and at a maximum distance from the front lot line.
LOT LINE, SIDE:	Any lot line not a front or rear lot line.
LOT WIDTH:	The horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
MANUFACTURED	A structure with a Department of Housing and Urban Development (HUD) label HOME, certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended on August 22, 1981. A manufactured home as used in this title shall mean a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with Federal Manufactured Housing Construction and safety standards and regulations in effect at the time of construction.
MOBILE HOME:	A structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended on August 22, 1981.
MOBILE HOME, INDIVIDUAL LOT:	A mobile home or manufactured home placed in a permanent manner on an individual building lot in a residential zone (other than a mobile home park in an R-4 zone). Any such installation must be installed and constructed in accordance with the Oregon Building Codes Agency Standards for Manufactured Home Installation (May 1989) or as subsequently amended.
NON-CONFORMING STRUCTURE OR USE:	A lawful structure or use existing at the time this Title or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.
PARKING SPACE:	A rectangle not less than eighteen feet (18') long and eight feet (8') wide.

PERSON:	Every natural person, firm, partnership, association or corporation.
PROFESSIONAL OFFICES:	Offices or clinics for doctors, dentists, lawyers or architects, or any office of a similar nature or impact.
RESIDENTIAL FACILITY:	A facility licensed under the authority of the Oregon Department of Human Resources which provides residential care for 6 to 15 individuals.
RESIDENTIAL HOME:	A home licensed under the authority of the Oregon Department of Human Resources which provides care for 5 or fewer individuals.
SIGN:	A presentation other than a house number, which by words, figures or pictures, publicly displayed gives notice relative to a person, business or merchandise. Each display surface of a sign shall be considered to be a sign.
STORY:	That portion of a building above ground included between the upper surface of any floor and the upper surface of the floor next above.
STREET:	The entire width between the boundary lines of every way which provides for public use for the purposes of vehicular and pedestrian traffic and including the terms "road", "highway", "lane", "place", "avenue" or other similar designations but excludes "alleys".
STRUCTURE:	See Building.
STRUCTURAL ALTERATION:	A change to the supporting members of a building including the supporting parts of foundations, bearing walls or partitions, columns, or the roof.
TRAILER DWELLING:	Any vehicle or structure having a vehicle title or license and used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, footers or skirting, and which has been or reasonably may be, equipped with wheels for transporting such structure from place to place, whether by motive power or other means. The term "trailer dwelling" shall include "mobile home", "automotive trailer", "camp car", "house trailer" and "trailer coach", but excludes modular homes.
TRAILER PARK:	A plot of ground upon which eight (8) or more trailer dwellings occupied for dwelling purposes is located.
USE:	The purpose for which land or a structure is intended, or for which it is occupied or maintained.
VISION CLEARANCE AREA:	A triangular area on a lot at the intersection of two (2) streets, two (2) sides of which are lot lines measured from the corner intersection of the lot lines to a distance of twenty feet (20'). The third side of the triangle is a line across the corner of the lot joining the ends of the other two (2) sides. The vision clearance area shall contain no plantings, walls or structures exceeding two and one-half feet (2 1/2') in height measured from the grade of the street center line when such planting is determined by the City Manager to obstruct normal vision.
YARD, FRONT:	A yard between side lot lines and measured horizontally at right angles to the angles to the front lot line from the front lot line to the nearest point of the main 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 main building.
YARD, SIDE:	A yard between the front and rear yard measured horizontally and at right angles to the side lot line to the nearest point of the building. (Ord. 480, 4-10-79)

CHAPTER 11.02 GENERAL PROVISIONS

11.02.010 COMPLIANCE

No structure or lot shall be used, no structure shall be erected, and no existing structures shall be moved, altered or enlarged, except in conformity with the regulations for the zone in which the lot, structure or use is located.

11.02.020 CLASSIFICATION AND ZONES

For the purpose of this Title, the City is divided into the following zones:

<u>Zone</u>	<u>Abbreviated Designation</u>
Single Family Residential	R-1
Medium Density Residential	R-2
Multiple-Family Residential	R-3
Multiple-Family Mobile Home	R-4
Rural Residential	R-5
Commercial	C
Industrial	I

11.02.030 ZONE LOCATION

The boundaries of each zone listed in this Title are indicated on the Nyssa Zoning Map, which is hereby adopted by reference.

11.02.040 ZONING MAP

The Zoning Map adopted shall be dated with the effective date of this Title that adopts the zone or zone change. A certified print of the adopted Map shall be maintained by the City Manager.

11.02.050 ZONE BOUNDARIES

Wherever any uncertainty exists as to the boundary of a zone as shown on the Zoning Map, the following regulations shall control.

- (A) Where a boundary line is indicated as following a street or alley, it shall be construed as following the center line of such street or alley.
- (B) Where a boundary line follows or approximately coincides with a lot or property ownership line, it shall be construed as following such line.
- (C) Where a boundary line is not indicated as following or approximately coinciding with a street, alley, lot line or property ownership line, the boundary line shall be determined by the use of the scale designated on the Zoning Map.
- (D) Where the boundary line of a zone divides a lot in single ownership, then the boundary line shall be considered as the lot line for purposes of computing area and setback for uses which are permitted in the less restrictive zone, the ownership lines may be used in applying the area and setback regulations. (Ord. 480, 4-10-79)

CHAPTER 11.03 SINGLE FAMILY RESIDENTIAL ZONE (R-1)

11.03.010 PURPOSE

The purpose of the Single Family Zone (R-1) is intended to provide for single family uses, together with compatible uses determined to be desirable and/or necessary.

11.03.020 USES PERMITTED OUTRIGHT

The following uses and their accessory uses are permitted outright:

- (A) Single family dwelling.
- (B) Home occupations as defined in Section 11.01.030.
- (C) Family Day Care Provider
- (D) Residential Home
- (E) Manufactured Home which meets the following requirements:
 1. Shall be multi-sectional and enclose a space of not less than 1,000 square feet.
 2. Shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.
 3. Shall have a pitched roof with a minimum slope of 3 feet in height for each 12 feet in width.
 4. Shall have exterior siding and roofing which in color, material, and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the zone.
 5. Shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single family residential dwellings constructed under the state building code as defined in ORS 445.010.
 6. Shall have a garage or carport constructed of like materials.
 7. Shall meet all other requirements for single family dwellings in this Title. (Ord. 553, 12-14-93)

11.03.030 CONDITIONAL USES PERMITTED

The following uses and their accessory uses are permitted when authorized in accordance with Chapter 11.15 of this Title.

- (A) Church
- (B) School.
- (C) Public parks.
- (D) Public or semi-public buildings such as fire stations and power substations; and uses essential to the physical, economic and social welfare of the area.

11.03.040 LOT SIZE

The lot size shall be as follows:

- (A) The minimum lot size shall be eight thousand (8,000) square feet for a corner lot and eight thousand (8,000) square feet for an interior lot.
- (B) The minimum lot width at the front of the building shall be eighty feet (80') for a corner lot and eighty feet (80') for an interior lot.
- (C) The minimum lot depth shall be one hundred feet (100').

11.03.050 SETBACK REQUIREMENTS

The yard shall be as follows:

- (A) The front yard shall be a minimum of fifteen feet (15').
- (B) The side yard shall be a minimum of eight feet (8'), except for corner lots where the side yard on the street side shall be a minimum of fifteen feet (15').
- (C) The rear yard shall have a minimum depth of fifteen feet (15').

11.03.060 HEIGHT OF BUILDING

No building shall exceed a height of thirty five feet (35'). (Ord. 480, 4-10-79)

11.03.070 LOT COVERAGE

Buildings shall not occupy more than fifty percent (50%) and not less than twenty percent (20%) of the lot area. (Ord. 506)

11.03.080 OFF-STREET PARKING

Off-street parking facilities shall be provided on the site of each use as prescribed in Chapter 11.10 of this Title. (Ord. 480, 4-10-79)

CHAPTER 11.04 MEDIUM DENSITY RESIDENTIAL ZONE (R-2)

11.04.010 PURPOSE

The Medium Density Residential Zone (R-2) is intended to provide for medium density mixture of single family dwellings with more dense two-family residential structures (duplex).

11.04.020 USES PERMITTED OUTRIGHT

The following uses and their accessory uses are permitted outright:

- (A) Uses permitted outright or as a conditional use in an R-1 zone. (Ord. 553, 12-14-93)

11.04.030 CONDITIONAL USES

- (A) Three (3) and four (4) plex dwellings.
- (B) Professional and/or business office that can demonstrate to Planning Commission to be of a similar character to the surrounding neighbors.
- (C) Fraternal organizations.
- (D) Residential Facility.

11.04.040 LOT SIZE

The lot size shall be as follows:

- (A) The minimum lot size for corner lots shall be six thousand (6,000) square feet and five thousand (5,000) square feet for interior lots
- (B) The minimum width of the front of the building line shall be fifty five feet (55') for corner lots and fifty feet (50') for interior lots.

11.04.050 SETBACK REQUIREMENTS

The setback requirements are:

- (A) Front yard shall have a minimum depth of ten feet (10').
- (B) Side yard shall have a minimum width of five feet (5'); corner lots, the side yard on the street side shall be fifteen feet (15').
- (C) Rear yard shall have a minimum depth of ten feet (10').

11.04.060 HEIGHT OF BUILDINGS

Buildings shall not exceed thirty five feet (35').

11.04.070 OPEN AREAS AND LANDSCAPING

The sites of businesses and professional offices shall provide a minimum area of twenty percent (20%) of the lot of open area.

11.04.080 OFF-STREET PARKING

Off-street parking facilities shall be provided on the site of such use as prescribed in Chapter 11.10 of this Title.

(Ord. 480, 4-10-79)

11.04.090 LOT COVERAGE

Buildings shall not occupy more than seventy five percent (75%), nor less than twenty percent (20%), of the lot area. (Ord. 506)

CHAPTER 11.05 MULTIPLE-FAMILY RESIDENTIAL ZONE (R-3)

11.05.010 PURPOSE

The Multiple-Family Residential Zone is intended to provide for higher density multiple family dwellings in the City.

11.05.020 USES PERMITTED OUTRIGHT

The following uses and their accessory uses are permitted outright:

- (A) Single family dwellings.
- (B) Two (2), three (3) and four (4) plex dwellings.
- (C) Multiple family dwellings.
- (D) Boarding, rooming house.
- (E) Home occupations.
- (F) Family Day Care Providers.
- (G) Residential Homes.
- (H) Manufactured homes as permitted under 11.03.020 (E). (Ord. 553, 12-14-93)

11.05.030 CONDITIONAL USES

The following uses and their accessory uses are permitted when authorized in accordance with the requirements of Chapter 11.13 of this Title.

- (A) Professional and business office demonstrating to the satisfaction of the Planning Commission that it is of similar character and impact to the surrounding neighborhood.
- (B) Parks, playgrounds and community recreation centers.
- (C) Public or semi-public buildings such as a fire station or power substation and other uses essential to the physical and economic and social welfare of the area.
- (D) Condominiums and townhouses.
- (E) Fraternal organizations.

11.05.040 LOT AREA

The minimum lot area shall be as follows:

- (A) The minimum lot area for single family houses shall be five thousand (5,000) square feet for an interior lot; and six thousand (6,000) square feet for a corner lot.
- (B) The minimum lot area for a duplex is six thousand (6,000) square feet.

11.05.050 SETBACK REQUIREMENTS

The yard shall be as follows:

- (A) The front yard shall have a minimum of twenty feet (20') in depth.
- (B) Side yards shall have a minimum of five feet (5') from the overhangs, except for corner lots where the side yard shall be a minimum of fifteen feet (15').
- (C) The rear yard shall have a minimum depth of twenty feet (20').

11.05.060 HEIGHT OF BUILDING

No building shall exceed a height of forty five feet (45'). (Ord. 480, 4-10-79)

11.05.070 LOT COVERAGE

A building shall not occupy more than seventy five percent (75%), nor less than twenty percent (20%), of the lot area. (Ord. 506)

CHAPTER 11.06 MULTI-FAMILY MOBILE HOME ZONE (R-4)

11.06.010 PURPOSE

The multi-family mobile home zone is intended to provide for greater density and to permit the use of mobile homes on individual lots. As used in this Chapter, the term mobile home shall include manufactured homes as defined by ORS 445.003(25)(a)(C)(i). (Ord. 553, 12-14-93)

11.06.020 USES PERMITTED OUTRIGHT

The following uses and their accessory uses are permitted:

- (A) Mobile homes.
- (B) Mobile home parks.
- (C) Multi-family dwellings.
- (D) Accessory uses and buildings customarily incidental to mobile home parks, including utility and storage buildings, recreation areas, an office and a dwelling for the manager.
- (E) Residential Facilities.

11.06.030 INDIVIDUAL MOBILE HOMES

Lot area dimension and parking requirements:

- (A) The lot area shall be a minimum of four thousand (4,000) square feet.
- (B) The front yard shall have a minimum depth of ten feet (10').
- (C) Side yard shall have a minimum width of ten feet (10').
- (D) Minimum rear yard shall be ten feet (10').
- (E) Building height shall be a maximum of one story or twenty feet (20').
- (F) Off-street parking facilities shall be provided on the lot as prescribed in Chapter 11.10 of this Title.

11.06.040 SITE DEVELOPMENT PLAN

Each application for a building permit for a mobile home park shall be accompanied by development plan containing a plot plan, site details as related to topography, public utilities, parking, streets and landscaping, beginning and completion dates and other related information. The development plan shall comply with the following minimum standards:

- (A) Each site shall be adequately served by facilities such as water supply, sewers, sidewalks and improved streets. Each mobile home unit shall be provided with a water, sewer and electrical connection. The electrical connection shall conform to State standards.
- (B) Each mobile home park shall have a minimum frontage of one hundred feet (100'), a minimum depth of one hundred five feet (105') and an area of not less than two (2) acres.
- (C) In mobile home parks, there shall be a minimum of three thousand (3,000) square feet of site area for each mobile home unit.
- (D) Setbacks and yard requirements for units located in mobile home parks shall be as follows:

1. Front and rear yards shall have a minimum depth of ten feet (10').
 2. Side yards shall have minimum width of ten feet (10'). On a corner lot, the side yard shall be fifteen feet (15') on the side abutting the street.
 3. No detached structure shall exist within ten feet (10') of the front lot line.
- (E) No structure shall exceed thirty eight feet (38') in height.
- (F) A minimum of one hundred (100) square feet of outdoor recreation area, suitably improved for recreational use, shall be provided for each mobile home unit exclusive of required yards. Each recreation area shall have a minimum size of two thousand five hundred (2,500) square feet and a minimum width of twenty five feet (25'). No more than ten percent (10%) of the recreation area may exceed a five percent (5%) slope.
- (G) There shall be a minimum of six (6) off-street parking spaces for every four (4) mobile home units or fraction thereof. At least one parking space shall be located on each site.
- (H) Primary access to mobile home parks shall be from City streets and shall be designed to cause minimum interference with traffic movement. Where necessary, additional right of way shall be dedicated to maintain adequate traffic circulation.
- (I) Access driveways connecting mobile home parks to a public street shall have a width of not less than thirty six feet (36'), of which not less than twenty feet (20') shall be paved. Driveways shall be designed to provide for all maneuvering of mobile homes without encroaching on a public street. All parking areas and drives shall be constructed of durable and dustless materials.

The Planning Commission may recommend approval, disapproval or modification of the application and attach any reasonable conditions to a development plan. Once approved by the City Council, the plan submitted shall become the official plan. No building permit shall be issued except for construction conforming to the official plan and the plan shall be observed and fulfilled in the development of the site. All features required shall be installed and retained indefinitely or until approval has been received from the City Manager for modification.

11.06.050 COMMENCEMENT OF DEVELOPMENT

If construction pursuant to a valid building permit is not diligently prosecuted within not more than two (2) years from the effective date of a decision permitting the development as a mobile home park, the area shall automatically revert to the zone in effect prior to designation, or if not previously zoned, to R-1. At any time prior to such reversion, the Planning Commission, by motion, may grant an extension which shall expire no later than three (3) years after the effective date of the ordinance designating the area as R-4.

11.06.060 MULTIPLE FAMILY

Same requirements as under the R-3 Zone. (Ord. 480, 4-10-79)

CHAPTER 11.07 COMMERCIAL ZONE (C)

11.07.010 PURPOSE

The purpose of the Commercial Zone is to provide for an area of wide range commercial uses, together with uses determined to be desirable and/or necessary.

11.07.020 USES PERMITTED OUTRIGHT

The following uses and their accessory uses are permitted outright:

- A use permitted outright or as a conditional use in an R zone.
- Amusement enterprise, including pool hall, bowling, dancing hall, skating rink.
- Auditorium, exhibition hall or other public assembly room.
- Automobile service station.
- Automobile laundry.
- Automobile, truck, boat or trailer sales, rental, service, parts and repair.
- Bakery.
- Bank, loan company or similar financial institution.
- Barber shop.
- Beauty shop.
- Bicycle shop.
- Blueprinting, photostating or other reproduction.
- Book or stationery store, or newsstand.
- Bookbindery.
- Building supply.
- Bus station.
- Business machines, retail and service.
- Cabinet, carpenter or woodworking shop.
- Catering establishment.
- Clinic, except animal clinic.
- Clothes cleaning or laundry agency.
- Clothing store or tailor shop.
- Club, lodge, union or fraternal organization.

Cocktail lounge or tavern.

Confectionery store.

Curtain or drapery shop.

Dancing school or music studio.

Day nursery.

Delicatessen.

Drug Store, pharmacy.

Dry Cleaning or pressing, except those using highly volatile or combustible materials or using high pressure steam tanks or boilers.

Dry goods, millinery or dress shop.

Electrical supply store.

Feed and seed store.

Florist shop.

Floor covering sales and service.

Food store.

Freight depot.

Frozen food lockers, retail only.

Furniture store.

Garden store.

Gift, hobby or art shop.

Grocery store.

Hardware store.

Health studio, physical therapist, reducing salon.

Hotel or motel.

Ice or cold storage plant.

Jewelry store, including repairing.

Laboratory for research or testing.

Laundry, dry cleaning or dyeing establishment.

Leather goods sales, including harness and saddle shop.

Locksmith.

Machinery or equipment sales, service or storage.

Magazine or newspaper distribution agency.

Meat market, retail only.

Mortuary, undertaking or funeral parlor.

Newspaper publishing.

Notions.

Office, business or professional.

Office supplies.

Paint store, including related contractor shop.

Parking lot or parking garage.

Pawnshop.

Pet shop.

Plumbing, heating, electrical or paint contractor sales, repair or storage.

Printing plant.

Radio or television sales and service.

Recyclable materials collecting station (Ord. 562, 8-8-95)

Restaurant or hotel supply.

Restaurant or tearoom.

Retail store.

Scientific or professional instrument sale or repair.

Secondhand store.

Self-service laundry.

Shoe store or shoe repair shop.

Storage building for household goods.

Studio: art, music or photography.

Taxidermy shop.

Telephone or telegraph exchange.

Theater, except drive-in theater.

Trailer park.

Upholstery shop.

Welding, sheet metal or machine shop.

Wholesale distribution or outlet, including warehousing and storage.

Wholesale office or show room with merchandise on the premises limited to small items and samples.

11.07.021 CONDITIONAL USES

The following uses and their accessory uses are permitted when authorized in accordance of Chapter 11.15 of this Title:

A solid waste disposal transfer station, provided that such facility meets all public health and safety requirements imposed by law and will not create a nuisance. (Ord. 562, 8-8-95) ✓

11.07.030 SETBACK REQUIREMENTS

(A) The yard shall be as follows:

1. The side yard shall be a minimum of ten feet (10') between building overhangs where abutting a residential zone.
2. Rear yard shall have a minimum depth of twenty feet (20') where abutting a residential zone.

11.07.040 SIGNS

In a C zone, signs located within one hundred feet (100') of a residential zone shall be set back at least ten feet (10') from the lot in a residential zone, shall not be moving or intermittent flashing, and shall not exceed an area twenty five (25) square feet on each side.

11.07.050 OFF-STREET PARKING AND LOADING

Parking and loading shall be provided in accordance with Chapter 11.10 of this Title. (Ord. 480, 4-10-79)

CHAPTER 11.08 INDUSTRIAL ZONE (I)

11.08.010 PURPOSE

The Industrial Zone (I) is intended to provide for areas where manufacturing, processing and other industrial uses are best located to operate at its maximum and to minimize potential conflicts with non-compatible land uses, e.g. single family residential.

11.08.020 USES PERMITTED OUTRIGHT

The following uses and their accessory uses are permitted in an I zone:

Processing, packaging or storage of food, beverage, excluding distillation, fermentation, rendering of fat or oil or slaughtering.

Wholesale distribution center.

Laboratory for experiment and research.

Repair, rental, sale, servicing or storage of machinery, implements, equipment, trailers or motor vehicles.

Storage and/or sale of building supplies or equipment.

Warehouse or wholesale distribution and sale facility.

Welding, sheet metal or machine shop.

Eating and drinking establishment.

Business office.

Service station.

Solid waste disposal transfer station, provided that such facility meets all public health and safety requirements imposed by law. (Ord. 562, 8-8-95)

Recyclable materials collecting station (Ord. 562, 8-8-95)

11.08.030 CONDITIONAL USES

The following uses and their accessory uses are permitted when authorized in accordance with Chapter 11.15 of this Title:

Any uses which creates a nuisance because of noise, smoke, odor, dust or gas.

Public or semi-public uses such as a fire station or power substation or any use essential to the physical, economical or social welfare of the area.

11.08.040 LOT SIZE AND SETBACK REQUIREMENTS

(A) No yards are required in an I zone, except as provided in Section 11.13.010 A of this Title.

(B) No minimum lot size.

11.08.050 LIMITATION ON USE

In an I zone, the following limitation shall apply:

- (A) Material shall be stored and grounds shall be maintained in a manner which will not aid the propagation of insects, rodents, odors or unsightly weeds.
- (B) Access from a public street to properties in an I zone shall be located to minimize traffic congestion and avoid directing industrial traffic onto residential streets.
- (C) Industrial property abutting residential property shall have a minimum front, side and rear yard requirement of ten feet (10') and be separated by a permanently maintained fence at least six feet (6') high.

11.08.060 OFF-STREET PARKING AND LOADING

Parking and loading shall be provided in accordance with Chapter 11.10 of this Title. (Ord. 480, 4-10-79)

CHAPTER 11.09 FLOOD PLAIN ZONE (FP)

11.09.010 DESCRIPTION AND PURPOSE

The Flood Plain (FP) designation may be applied in any zone as hereinafter set forth where the area is subject to inundation by flooding of surface water. The area subject to flooding shall be as determined by the U.S. Corps of Engineers' most recent data, designating the area subject to a one percent (1%) or one hundred (100) year flood. Its purpose is to minimize property loss, danger of injury and health hazards. To accomplish such purposes, flood elevations will be established by the City prior to issuing any building permits.

11.09.020 PERMITTED USES OUTRIGHT

The City Manager may establish Flood Plain (FP) areas subject to Planning Commission approval by designating the boundaries thereof. Such designation shall be based upon objective flood plain and surface water data. Such designation shall be removed by the City Manager upon it being established to his satisfaction that because of additional food control measures, control of development through the establishment of minimum floor elevations is no longer necessary.

In any zone where the zone symbol is followed by the parenthetically enclosed letters "FP", raising and harvesting crops and other compatible agricultural or horticultural uses are permitted outright and only the following other land uses are permitted, if said uses are permitted in such zone classification:

- (A) Parking area private.
- (B) Parking area public.
- (C) Parks, playgrounds, golf courses or driving ranges.

11.09.030 PERMITTED BUILDINGS AND BUILDING USES

In any zone also designated "FP", the following buildings only are permitted:

- (A) Accessory building normal and incidental to the uses provided in Section 11.09.020 above.
- (B) Uses normally permitted in the zone classification upon approval of the City Manager only where it appears no hazard to property, person or health would exist or be created by reason of such building and building use. (Ord. 480, 4-10-79)

11.09.040 WATER SERVICE EXTENSION PROHIBITED

Municipal water services will not be extended to new development within designated flood plain areas.

CHAPTER 11.10 OFF-STREET PARKING AND LOADING

11.10.010 OFF-STREET PARKING

At the time of erection of a new structure, or at the time of enlargement; or change in use of an existing structure within any zone in the City, off-street parking spaces shall be provided in accordance with the requirements of this Section unless greater requirements are otherwise established. 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. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of property but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift peak season. Fractional space requirements shall be counted as a whole space.

Existing buildings which increase current floor space in addition to change of use may be granted a variance by the Planning Commission. At the time of passing of this Title, existing structures in a C zone will not be required to comply with these parking requirements due to change of use:

	<u>Use</u>	<u>Standard</u>
1.	Residential:	
a.	Single	One space per dwelling.
b.	Two (2) and three (3) family	One and one-half (1 1/2) spaces per dwelling unit.
c.	Four (4) or more family	Three (3) spaces per two (2) dwelling units.
2.	Commercial Residential:	
a.	Hotel	One space per two (2) guest rooms, plus one space per two employees.
b.	Motel	One space per guest room or suite, plus one additional space for the owner or manager.
c.	Club, lodge	Spaces to meet the combined requirements of the uses of the being conducted such as hotel, restaurant, auditorium, etc.
3.	Institutional:	
a.	Welfare, convalescent, hospital, nursing home, sanitarium, rest home, home for the aged	One space per five (5) beds for patients or residents.
b.	School, church	One space per classroom, plus one space per administrative employee, plus one space for each six (6) students or one space per four (4) seats or eight feet (8') of bench length in the main auditorium, whichever is greater.

- c. Stadium, arena, theater One space per four (4) seats or eight feet (8') of bench length.
- d. Bowling alley Five (5) spaces per alley, plus one space per two (2) employees.
- e. Dance hall, skating One space per two hundred (200) square feet of floor area, plus one space for two (2) employees.

4. Commercial

- a. Retail store except as provided in subsection b of this subsection One space per four hundred (400) square feet of floor area.
- b. Garage or repair shop, retail store handling exclusively bulky merchandise such as automobiles and furniture One space per eight hundred (800) square feet of floor space.
- c. Bank, office (except medical and dental) One space per eight hundred (800) square feet of floor space, plus one space per two (2) employees.
- d. Medical and dental clinics One space per six hundred (600) square feet of floor area, plus one space per two (2) employees.
- e. Eating or drinking establishments One space per eight hundred (800) square feet of floor area.

5. Industrial

- a. Storage, warehouse, manufacturing establishment, rail or trucking freight terminal One space per employee
- b. Wholesale establishment One space per employee, plus one space per seven hundred (700) square feet of patron serving area.

6. Loading: Unloading of vehicles on public property shall only be done while parking parallel to the centerline of street or alley. No vehicle shall be permitted to park other than parallel while unloading materials in any zone unless diagonal parking is specifically permitted in that area.

11.10.020 GENERAL PROVISIONS; OFF-STREET PARKING

The provision and maintenance of off-street parking spaces is a continuing obligation of the property owner.

- (A) No permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space

required in this Chapter. Use of property in violation thereof shall be a violation of this Chapter. 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 requirements, it shall be unlawful and a violation of this Chapter to begin or maintain such altered use until the required increase in off-street parking is provided.

- (B) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.
- (C) Owners of two (2) or more structures or parcels of land may agree to utilize jointly the same parking and loading space when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the secretary of the Planning Commission in the form of deeds, leases or contracts to establish joint use.
- (D) Unless otherwise provided, required parking and loading spaces shall not be located in the required yard set backs.
 - 1. Parking spaces along the outer boundaries of a parking lot shall be contained by a curb or bumper block at least four inches (4") high and set back a minimum of two and one-half feet (2 1/2') from the property line.
 - 2. Service drives to off-street parking areas shall be designed and constructed to facilitate the safety of traffic access and safety of pedestrians. Service drives shall be clearly and permanently marked and defined through use of rails, curbs or markers.
- (E) New construction or rehabilitated structures on existing platted property, or change in use of an existing building, not meeting off-street parking requirements may apply for a variance.

11.10.030 STANDARDS FOR OFF-STREET PARKING FACILITIES

- (A) Required parking for residential uses shall be provided on the same site as the building. Required parking for all other uses shall be provided on the same site as the building, or upon abutting property which is contiguous by at least ten feet (10'). Street rights of way shall be excepted when determining contiguity.
- (B) Areas used for parking and maneuvering of vehicles shall have durable, dustless, all-weather paved surfaces and, excepting for R-1, R-2 and R-3 uses, shall be drained as to avoid flow of water across sidewalks.
- (C) Artificial lighting which may be provided shall not create a glare or other public nuisance.
- (D) Access aisles and parking stalls shall be of sufficient width and length to provide for all turning and maneuvering in accordance with the standard specifications established by the Building Official.
- (E) Developments required to provide more than three (3) parking spaces shall not have backing or maneuvering movements occur within a public street other than an alley.
- (F) Service drives shall be designed and constructed to facilitate the safe and efficient flow of traffic. The number of service drives shall be the minimum that will allow the property to accommodate the anticipated traffic. Service drives shall be clearly and permanently marked by curbs, planting islands, fences or other devices placed adjacent to the driveway.
- (G) No planting, fences or other visual obstructions more than thirty inches (30") tall nor tree limbs maintained lower than eight feet (8') from the ground shall be permitted within the area formed by the intersection of the driveway line, the street right-of-way line and straight line joining said lines through points twenty feet (20') from their intersection.
- (H) Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper

raise so placed to prevent a parked vehicle from extending over an adjacent property line, street or sidewalk.

- (l) Parking lot traffic movements or directional arrows shall be clearly signed, or marked on pavement. (Ord. 480, 4-10-79)

CHAPTER 11.11 SUPPLEMENTAL PROVISIONS

11.11.010 GENERAL PROVISIONS REGARDING ACCESSORY USES

Accessory uses shall comply with all requirements for the principle use except under the following limitations:

- (A) A greenhouse or hothouse may be maintained accessory to a dwelling if it does not exceed ten percent (10%) of the square footage of the main building.
- (B) No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.
- (C) A side or rear yard may be reduced to three feet (3') for an accessory structure erected not less than fifty feet (50') from any street, provided that the structure does not exceed a height of one story nor an area of six hundred (600) square feet.

11.11.020 AUTHORIZATION OF SIMILAR USES

The Planning Commission may rule that a use not specifically listed may be included among the allowed uses if it is of the same general type as allowed uses.

11.11.030 MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS

No lot area, or other open space, or required off-street parking or loading area existing on or after the effective date of this Chapter shall be reduced in dimension or size below the minimum required by this Chapter, nor shall such off-street parking area which is required by this Chapter be used as the lot area or open space for any other building.

11.11.040 EXCEPTIONS TO YARD REQUIREMENTS

In the case of dwellings, the following exception to the front yard requirement is authorized for a lot in any zone. If there are dwellings on both abutting lots with front yards of less than the required setbacks, the front yard for the lot need not exceed the average front yard of the abutting dwellings. 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 one-half (1/2) way between the depth of the abutting lot and the required front yard depth.

11.11.050 ACCESS

All lots shall abut a street other than an alley for a width of at least twenty five feet (25').

11.11.060 VISION CLEARANCE

Vision clearance intersections in a residential zone shall be twenty feet (20'), at intersections with an alley, ten feet (10').

- (A) No sight-obscuring plant or fence over thirty inches (30") above adjacent curb height shall be based in the vision clearance angle.
- (B) Where the topography is already over thirty inches (30"), the City shall provide adequate protective signs. (Ord. 480, 4-10-79)

CHAPTER 11.12 NONCONFORMING USES AND STRUCTURES

11.12.010 CONTINUATION OF NONCONFORMING USE OR STRUCTURE

Subject to the provisions of Sections 11.12.010 and 11.12.050, a nonconforming structure or use may be continued and maintained in reasonable repair, but shall not be structurally 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 Chapter is permitted.

11.12.020 NONCONFORMING STRUCTURE

A structure conforming as to use but nonconforming as to height, setback or coverage may be altered or extended providing the alteration or extension does not exceed the height, setback, parking or coverage requirements of this Chapter.

11.12.030 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 only be for a conforming use.

11.12.040 CHANGE OF NONCONFORMING USE

If a nonconforming use is changed, it shall be changed to a use conforming to the zoning regulations and, after change, it shall not be changed back again to the original nonconforming use.

11.12.050 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 sixty percent (60%) of the cost of replacement of the building using new materials, and is not restored or returned to use in actual operating condition within one year from the date of destruction, a future structure or use on the property shall conform to the provisions of this Chapter. (Ord. 480, 4-10-79)

CHAPTER 11.13 CONDITIONAL USES

11.13.010 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES

Uses designated in this Chapter as conditional uses may be permitted, enlarged or otherwise altered upon authorization by the Commission in accordance with the standards and procedures set forth in Sections 11.13.020 and 11.13.070. Conditional uses are those which may be appropriate, desirable, convenient or necessary in the district in which they are allowed, but which, by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort and convenience unless appropriate conditions are imposed. In permitting a conditional use or modification of an existing conditional use, the City may impose, in addition to those standards and requirements expressly specified by the Chapter, the following additional conditions which the City considers necessary to protect the best interests of the surrounding property or the City as a whole.

These conditions include:

- (A) Increasing the required lot size or yard dimension.
- (B) Limiting the height of buildings.
- (C) Controlling the location and number of vehicle access points.
- (D) Increasing street width.
- (E) Increasing the number of off-street parking and loading space requirements.
- (F) Limiting the size, number and location of signs.
- (G) Requiring screening landscape to protect adjacent property.
- (H) Controlling noise, smoke, odor, dust or gas and other conditions consistent with the intent of the particular zone in which a conditional use is allowed.

In a case of a use existing prior to the effective date of this Chapter and which is classified in this Chapter as a conditional use, any change in use or in lot or any alteration of the structure shall conform to the requirements dealing with conditional uses.

In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to serve against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following are either met, can be met by observance of conditions, or are not applicable:

- (A) The proposal will be consistent with the comprehensive plan and the objectives of the Zoning Ordinance and other applicable policies of the City.
- (B) Taking into account the location, size, design and operation characteristics of this proposal, it will have a minimal adverse impact on the (1) livability, (2) value, and (3) appropriate development and abutting properties and the surrounding area compared to the impact of development that is permitted outright.
- (C) The location and design of the site and structure for the proposal will be as attractive as the nature of the use and its setting warrants.
- (D) The proposal will preserve assets of particular interest to the community.

11.13.020 APPLICATION FOR A CONDITIONAL USE

A property owner or his authorized agent may initiate a request for a conditional use or the modification of any

existing conditional use by filing an application with the City Manager using forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development and names and addresses of property owners within two hundred feet (200'). The Commission may require other drawing or information necessary to an understanding of the proposed use and its relationship to surrounding properties. The application shall be accompanied by a fee established by the Council.

11.13.030 PUBLIC HEARING ON A CONDITIONAL USE (Repealed Ord. 538, 6-26-91)

11.13.040 RECESS OF THE HEARING BY THE COMMISSION

The Commission may recess a hearing on a request for a conditional use in order to obtain additional information or to serve further notice on other property owners or persons who it decides may be interested in the request. Upon recessing for this purpose, the Commission shall announce the time and date when the hearing is resumed.

11.13.050 NOTIFICATION OF ACTION

Within five (5) days after a decision has been rendered, the City Manager shall provide the applicant with written notice of the Commission's action on the request for a conditional use.

11.13.060 ACTION

The Planning Commission shall make specific findings for granting or denying a conditional use permit in accordance with the general criteria of this Section, and shall forward its recommendations along with its findings to the City Council.

11.13.070 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 the conditional use or as otherwise provided as follows.

- (A) Setback: In a residential zone, front, side and rear yards shall be at least two-thirds (2/3) the height of the principal structure. In any zone, additional yard requirements may be imposed.
- (B) 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 fifty feet (50') if the total floor area of the building does not exceed one and one-half (1 1/2) times the area of the site and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.
- (C) 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 fifty feet (50') of a residential property if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property. (Ord. 480, 4-10-79; amd. Ord. 506)

CHAPTER 11.14 VARIANCE

11.14.010 AUTHORIZATION TO GRANT OR DENY VARIANCES

The Commission may grant variances from the provisions of this Title where it can be shown that owing to unusual topographic conditions, unusual conditions as to the shape of the property or the location of the building on the property, or other conditions over which the applicant has had no control, the literal interpretation of this Title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting the variance, the Commission may attach conditions which it finds necessary to protect the best interests of the Title.

11.14.020 APPLICATION FOR A VARIANCE

A request for a variance may be initiated by a property owner or his authorized agent by filing an application with the City Manager. The application shall be accompanied by a fee established by the Council.

11.14.030 NOTICE OF A PUBLIC HEARING ON A VARIANCE (Repealed Ord. 538, 6-26-91)

11.14.040 NOTICE TO APPLICANT

The City Manager shall notify the applicant for a variance of the action of the Commission within five (5) days after a decision has been rendered.

11.14.050 CONDITIONS FOR GRANTING A VARIANCE

No variance shall be granted unless it can be shown that all of the following conditions exist:

- (A) Exceptional or extraordinary conditions apply to the property that do not generally apply to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography or other circumstances over which the applicant has no control.
- (B) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.
- (C) The authorization of the variance shall not be materially detrimental to the purpose of this Title, be injurious to property in the zone or vicinity in which the property is located or be otherwise detrimental to the objectives of any City development pattern or policy.
- (D) The variance requested is the minimum variance from the provisions and standards of the Title which will alleviate the hardship. (Ord. 480, 4-10-79)

CHAPTER 11.15 AMENDMENTS TO THE ZONING ORDINANCE

11.15.010 AUTHORIZATION TO INITIATE AMENDMENTS

An amendment to the text or the Zoning Map of this Title may be initiated by the City Council, Planning Commission or by a property owner. The Planning Commission shall, within forty (40) days after a hearing, recommend to the City Council approval, disapproval or modification of the proposed amendment.

11.15.020 APPLICATION AND FEE

An application for amendment by an owner shall be filed with the secretary of the Planning Commission fourteen (14) days prior to the Planning Commission meeting at which the proposal is to be considered. The application shall be accompanied by an additional fee.

11.15.030 PUBLIC HEARING ON AN AMENDMENT

(Repealed Ord. 538, 6-26-91)

11.15.040 RECORDS OF AMENDMENTS

The secretary of the Planning Commission shall maintain a record of amendments to the text and Map of this Title in a form convenient for the use of the public. (Ord. 480, 4-10-79)

CHAPTER 11.16 ADMINISTRATION, ENFORCEMENT AND INTERPRETATION

11.16.010 ENFORCEMENT

The secretary of the Planning Commission shall have the power and duty to enforce the provisions of this Title. An appeal from a ruling of the secretary of the Planning Commission shall be made to the Planning Commission.

11.16.020 PERMIT REQUIRED

Prior to the erection, movement, reconstruction, extension, enlargement or alteration of a structure, a building permit shall be obtained as required by the State Building Code.

11.16.030 APPEAL TO CITY COUNCIL

- (A) Generally, an action or ruling of the Planning Commission authorized by this Title may be appealed to the City Council within fifteen (15) days after the Planning Commission has rendered its decision by filing written notice with the secretary of the Planning Commission. If no appeal is taken within the fifteen (15) day period, the decision of the Planning Commission shall be final. If an appeal is filed, the City Council shall receive a report and recommendation from the Planning Commission and shall hold a public hearing on the appeal.
- (B) The party seeking reversal of the Planning Commission decision shall pay concurrent with filing the appeal, a deposit equal to the estimated cost of preparing a written transcript of the Planning Commission hearing or hearings. After the transcript is completed, the balance, if any, due for the transcript shall be paid to the City. The amount to be paid by the appellant for the written transcript of the previous hearing or hearings shall not exceed the actual cost of preparing the transcript up to \$500 plus one-half of the actual cost over \$500.
- (C) The City will make a final determination on any land use application fully within its control not later than 120 days following the date the submitted application is deemed to be complete.

11.16.040 TIME LIMIT OF A PERMIT FOR A CONDITIONAL USE OR A VARIANCE

A permit for a conditional use or for a use involving a variance shall be void after six (6) months if at least one-half (1/2) of the construction has not taken place.

11.16.050 INTERPRETATION

The provisions of this Title shall be held to the minimum requirements fulfilling its objective. Where the conditions imposed by any provisions of this Title are less restrictive than comparable conditions imposed by any other provisions of this Title, the provisions which are more restrictive shall govern.

11.16.060 SEVERABILITY

The provisions of this Title are hereby declared to be severable. If any section, sentence, clause or phrase of this Title is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Title. (Ord. 480, 4-10-79)

11.16.070 PUBLIC HEARING PROCEDURES

- (A) Notice of a Public Hearing on a conditional use, a variance, an amendment to a zone boundary, Comprehensive Plan Map Amendment, (or any other land use proceedings requiring a Public Hearing) shall be mailed to owners of property within one hundred (100) feet of the property for which the variance, conditional use, or zoning boundary amendment has been requested. The Notice of Hearing shall be mailed at least ten (10) days prior to the date of the Hearing. The names and addresses of property owners as shown in the records of the County Assessor shall be used. The Notice shall:

- (1) Explain the nature of the application and proposed use or uses which could be authorized.
 - (2) List the applicable criteria from the ordinance and the plan that apply to the application.
 - (3) Set forth the street address or other easily understood geographical reference to the subject property.
 - (4) State the date, time and location of the Hearing.
 - (5) State that failure to raise an issue by the close of the record at or following the final Evidentiary Hearing, in person or by letter, precludes appeal to LUBA based on that issue.
 - (6) State that failure to provide sufficient specificity to afford the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue.
 - (7) Include the name of a local government representative to contact and a telephone number where additional information may be obtained.
 - (8) State that a copy of (1) the application, (2) all documents and evidence relied upon by the applicant, and (3) applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
 - (9) State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the Hearing and will be provided at reasonable cost.
 - (10) Include a general explanation of the requirements for submission of testimony and the procedure for the conduct of Hearings.
- (B) If a proposed zone boundary amendment has been initiated by the City Council and is declared by the City Council to be a major reclassification, the mailing of individual notice is not required but such additional means of informing the public as may be specified by the Council shall be observed.
- (C) Notice shall be published no later than ten (10) days prior to the Hearing date in a newspaper of general circulation in the City for all Public Hearing items.
- (D) Failure of a person to receive the Notice prescribed in this section shall not impair the validity of a Hearing, nor the action taken.

CHAPTER 11.17 SUBDIVISIONS

11.17.010 PURPOSE

The purpose of this Chapter is to provide standards and guidelines and establish procedures for regulating the subdivision and partitioning of land within the City and within the Urban Growth Boundary of the City. This Chapter shall be known and may be cited as the "Subdivision Ordinance of the City of Nyssa" and shall hereinafter be referred to as "this Chapter". These regulations are intended to provide for the harmonious development of the City and its environs; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the future plans of the City for adequate open spaces for traffic, recreation, sewage, drainage, educational facilities, light and air and/or other public needs deemed necessary to create conditions favorable to the health and safety of Nyssa residents.

11.17.020 GENERAL REQUIREMENTS

- (A) Preliminary Planning Conference: Each subdivider of land shall confer with the Planning Commission or the City Manager before preparing a preliminary subdivision plat in order to become thoroughly familiar with the subdivision and zoning requirements of the City and with the proposals of future planning affecting the territory in which the proposed subdivision lies.
- (B) Relationship to Comprehensive Plan: A subdivision plat shall take into consideration the policies of the comprehensive plan and its elements as adopted by the City Council with respect to the type and intensity of land use, population densities and distribution, location and sizes of public areas, right of way and street improvement.
- (C) Relationship to Zoning Ordinance: A subdivision plat shall conform in all respects with applicable regulations of the Zoning Ordinance.
- (D) Improvements: Street, water and sewer extensions shall be provided at the expense of the developer.

11.17.030 CONSTRUCTION AND DEFINITIONS

- (A) Construction: The following rules of construction shall apply unless inconsistent with the plain meaning of the context or this Chapter:

TENSE: Words used in the present tense include the future tense.

NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.

SHALL and MAY: The word "shall" is mandatory; the word "may" is permissive.

GENDER: The masculine shall include the feminine and neuter.

- (B) Definitions: As used in this Chapter, the following words and phrases shall mean:

ALLEY: A narrow service way through a block designed only for trade vehicle access to the back or side of properties otherwise abutting on another street. An alley shall not be used as a primary entrance to a garage, carport or property entrance.

ARTERIAL: A street which is a fast or heavy traffic street of considerable continuity and used primarily as a traffic artery for intercommunication between areas of the City, farm to market roads and intercity traffic.

BUILDING LINES:	The lines indicated on the subdivision plat or otherwise described, limiting the area upon which structures may be erected.
BLOCK:	An area of land bounded by streets in a subdivision.
CITY:	The City of Nyssa.
COLLECTOR:	A street which carries traffic from residential streets to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such development.
COMPREHENSIVE PLAN:	A public document adopted by the City Council to serve as the law for the physical, social and economic growth of the City.
CUL-DE-SAC:	A short street having one end open to traffic and being terminated by a vehicle turn-around.
CURBLINE:	The line at the face of the curb nearest to the roadway. In the absence of a curb, the curblines shall be established by the City Engineering Department.
EASEMENT:	A right of usage of real property of another for a specific purpose.
LOT:	A unit of land created by a subdivision.
CORNER:	A lot abutting the intersection of two (2) streets.
INTERIOR:	A lot other than a corner lot.
PARTITION:	Either an act of partitioning land or an area or tract of land partitioned as defined in this Section. MAJOR PARTITION means a partition which includes the creation of a street. MINOR PARTITION means partition that does not include the creation of a street.
PARCEL:	A unit of land that is created by partitioning of land.
PARTITION LAND:	To divide an area or tract of land into two (2) or more parcels. "Partition land" does not include divisions of land resulting from lien foreclosures; divisions of land ownership between joint tenants or tenants in common made pursuant to a court order, and "partition land" does not include any adjustment to a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot standards of the Zoning Ordinance.
PLAT:	The final map, drawing, replat containing all descriptions, locations, dedications and information concerning a subdivision.
STREET:	The entire width between the boundary lines of every way which provides for public use for the purposes of vehicular traffic and including the terms "road", "highway", "lane", "place", "avenue" or other similar designations, but excludes "alleys".

RESIDENTIAL STREET:	A minor street which is parallel and adjacent to arterial streets and which provides access to abutting properties and protection from through traffic.
ROADWAY:	That portion of a road or alley right of way that is improved for vehicular traffic and is normally narrower in width than the right of way.
SUBDIVIDE LAND:	To divide an area or tract of land into four (4) or more lots when such an area or tract of land exists as a unit or contiguous units of land under a single ownership.
SUBDIVISION:	Either an act of subdividing land or an area or tract of land subdivided as defined in this Section.
URBAN GROWTH BOUNDARY AREA:	The area outside the City limits which has been designated to accommodate the City's expected growth. Urban growth boundary area will be that area shown on the Urbanization Map for the City.
VICINITY MAP:	A drawing to scale showing the location of the proposed partition or subdivision in relation to the abutting properties, street and other known landmarks.

11.17.040 JURISDICTION AND PROCEDURES

It shall be unlawful for any person being an owner, agent or person having control of the land within the City, or within the established urban growth boundary area to subdivide or lay out such land in lots unless by a plat in accordance with the laws of the State of Oregon, the applicable Malheur County ordinances and this Chapter. Such plats shall be first submitted to the Planning Commission for approval or disapproval. After report and recommendation of the Commission is made and filed, such plat shall be submitted to the Council for its approval or disapproval. No plat shall be recorded and no lots shall be advertised for sale or sold from such plat unless, and until, approved as herein provided.

The design and layout of all subdivisions shall conform with the requirements of this Chapter. The subdivider shall submit a preliminary plan in accordance with specifications of Section 11.17.050 hereof. The final plat shall be submitted in accordance with the provisions of Section 11.17.060 hereof.

11.17.050 PRELIMINARY PLAN

Whenever any person desires to subdivide or partition land into building lots or to dedicate streets, alleys or land for public use, within the City or within the established urban growth boundary area, he shall submit six (6) copies of the preliminary plat conforming to the requirements of this Section to the Planning Commission before submission of the final plat. Such preliminary plat must be filed with the City Manager at least thirty (30) days prior to the meeting of the Planning Commission at which consideration of the plat is desired. The preliminary plat shall show:

- (A) The location of present property lines, section or township lines and the lines of incorporated area, streets, buildings, watercourses, tree masses and other existing features within the area to be subdivided and similar information regarding existing conditions on land immediately adjacent thereto.
- (B) The location and direction of all watercourses, irrigation canals and laterals and drainage ditches and the location of all areas subject to flooding.
- (C) The proposed location and width of streets, alleys, lots, building and setback lines and easements.
- (D) Sites, if any, allocated for purposes other than single-family dwellings.
- (E) All parcels of land intended to be dedicated or reserved for public use, or for the common use of the property owners in the subdivision, with the purpose, condition or limitations of such reservations clearly

indicated.

- (F) The relationship of proposed subdivision to future streets on adjacent land controlled by the subdivider.
- (G) Existing sanitary and storm sewers, water mains, culverts, and other underground structures within the tract or immediately adjacent outlet are to be indicated in a general way upon the plat.
- (H) The title under which the proposed subdivision is to be recorded and the name of the subdivider plating the tract.
- (I) The names and adjoining boundaries of all adjacent subdivisions and the names of recorded owners of adjoining parcels of unsubdivided land.
- (J) Contours referred to a City bench mark with intervals sufficient to determine the character and topography of the land to be subdivided, but in no case shall the intervals be more than one foot (1').
- (K) A designation of the north point and a scale of one inch (1") equals a hundred feet (100'), date and approximate acreage.
- (L) Grades and profiles of streets and plans or written and signed statements regarding the grades of proposed streets and the width and type of pavement, location, size and type of sanitary sewer or other sewage disposal facilities, water mains and other utilities, facilities for storm water drainage and other proposed improvements such as sidewalks, plantings and parks and any grading of individual lots.
- (M) Zoning classifications of the land and adjoining property.
- (N) Statements to accompany tentative plat:
 - 1. Protective covenants to be recorded, if any.
 - 2. The date the proposed improvements are to be made or installed.
 - 3. A statement that the owner of the property or his agent is submitting the preliminary plat for approval or that the owner consents to the filing of the map.
 - 4. Any public, private or Municipal utility serving the area of the proposed subdivision.
 - 5. Irrigation and road districts and any other appropriate entity, agency or department which may be affected by such proposed subdivision.
- (O) Such officials and agencies receiving the said materials shall have fifteen (15) days to review and submit to the Planning Commission via the City Manager, any revisions or recommendations that would appear warranted in the public interest.
- (P) The preliminary plat, containing all the information specified in Section 11.17.050, and recommendations of the officials and agencies reviewing the plat shall be submitted to the Planning Commission at the hearing. The Planning Commission shall review the plan of the plat and reports submitted and take action upon the proposal within forty (40) days from the time of the hearing. They may approve, conditionally approve or disapprove the proposed subdivision. If the preliminary plat is not approved, the Commission shall state its reasons. Approval of the preliminary plat shall indicate approval of the final plat if there are no changes in the plat of the subdivision. The action of the Planning Commission shall be noted on two (2) copies of the preliminary plat, including reference to any attached documents describing conditions imposed by the Commission. One copy shall be returned to the subdivider and the other retained in the files of the Planning Commission.
- (Q) Before the Planning Commission may take action on a preliminary plat, it shall hold a public hearing. Notification of the hearing shall be by two (2) publications in a newspaper of general circulation in the

City for two (2) consecutive weeks prior to the date of the hearing. Notice of the hearing shall be posted in two (2) conspicuous places within the City for a period of ten (10) days before the time of hearing.

- (R) Subdivision and partition shall be in conformance with the Nyssa Comprehensive Plan.
- (S) A tentative approval of the preliminary plan shall not constitute acceptance of a plat or final plan. Tentative approval shall expire and become null and void one year after the date on the approval letter unless a final plan or plat is submitted within that period of time in accordance with this Chapter. The tentative approval shall be given only by letter and not by notation upon the plan itself.

11.17.060 FINAL PLAT

Within one year after approval of the preliminary plan, the subdivider shall cause the subdivision or any part thereof to be surveyed and a final plat prepared in conformance with the preliminary plat as approved. This plat shall be drawn on tracing cloth in permanent ink and shall be to a scale of one hundred feet (100') to the inch (1") unless otherwise directed by the Planning Commission, and shall show or be accompanied by all necessary information. The subdivider shall submit the original drawing in the office of the City Manager, at least thirty (30) days prior to the meeting of the Planning Commission.

In addition to that otherwise specified by ORS Chapter 92, the following information shall be shown on the final plat.

- (A) The boundary lines of the area being subdivided, with accurate distances and bearings.
- (B) The lines of all proposed streets and alleys, with their width and suggested names.
- (C) The accurate boundary of any portions of the property intended to be dedicated or granted for public use.
- (D) The line of departure of one street from another.
- (E) The lines of all adjoining property and the lines of adjoining streets, alleys and easements, with their width and names.
- (F) All lot lines, together with an identification system for all lots and blocks.
- (G) The location of all building lines and easements provided for public use, services or utilities.
- (H) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements and any other areas for public or private use. Linear dimensions are to be given to the nearest one-tenth (1/10) of a foot (1").
- (I) All necessary curve data.
- (J) The location of all survey monuments and bench marks, together with their descriptions.
- (K) Lot numbers shall begin with the number one and continue consecutively without omission in each block. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in addition to a subdivision of the same name, shall be a continuation of the existing numbering, in sequence with the original subdivision and will designate any duplication of name by successive number. All numbering will be in cooperation with City officials.
- (L) The name and number of the subdivision, the scale of the plat, points of the compass and the name of owners or subdividers.
- (M) The certificate of a surveyor licensed by the State of Oregon attesting to the accuracy of the survey and

the correct location of all monuments shown.

- (N) Protective covenants, restrictions and trusteeships and their periods of existence. Should these restrictions be of such length to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat.
- (O) Acknowledgement of the owner to the plat and restrictions, including dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required.
- (P) Certificates of approval for endorsement by the Council and County Commission and certificates indicating its submission to the Planning Commission.
- (Q) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.
- (R) A copy of any deed restrictions applicable to the subdivision.
- (S) A certificate by the City Manager that the subdivider has complied with the requirements of this Chapter.

11.17.070 TECHNICAL REVIEW

- (A) Upon receipt by the City, the final plat and other data shall be reviewed by the City Manager who shall examine them to determine that the subdivision as shown is substantially the same as it appeared on the approved preliminary plan and that there has been compliance with provisions of the law and of this Chapter.
- (B) The City Manager may make such checks in the field as are desirable to the City to verify that the map is sufficiently correct on the ground and his representatives may enter the property for that purpose.
- (C) If the City Manager determines that full conformity has not been made, he shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider a reasonable opportunity to conform.

11.17.080 APPROVAL OF PLAT

Upon receipt of the plat, with the review by the City Manager, the Planning Commission shall determine whether it conforms with the preliminary plan, with this Chapter and all other governing directives.

If the Planning Commission does not approve the plat, it shall advise the subdivider of the changes or additions that must be made and shall afford him a reasonable opportunity to make corrections. If the Planning Commission determines that the plat conforms to all requirements, it shall give approval, provided supplemental documents and provisions for required improvements are satisfactory. Approval shall be indicated by the chairman of the Planning Commission. The approval of the plat does not constitute or effect an acceptance by the public of the dedication of any street or other easement shown on the plat.

11.17.090 AGREEMENT FOR IMPROVEMENT

Before Planning Commission approval of a final plat or partition map, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property or execute and file with the City Manager an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the subdivider. The agreement shall also provide for reimbursement of the city for the cost of inspection by the City which shall not exceed ten percent (10%) of the cost of the improvements to be installed.

11.17.100 BOND

- (A) The subdivider shall file with the agreement referred to in Section 11.17.090, to assure his full and faithful performance thereof, one of the following:
1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney, or
 2. Cash.
- (B) Such bond shall be for a sum approved by the City Manager as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspection.
- (C) If the subdivider fails to carry out provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds cost and expense incurred by the City, it shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expenses incurred by the City, the subdivider shall be liable to the City for the excess of expense over the amount of the bond and such sum shall be due and payable to the City upon demand.

11.17.110 CITY COUNCIL APPROVAL

The final plat, three (3) prints on tracing cloth, and three (3) copies thereof, shall be submitted to the City Council after consideration thereof by the Planning Commission as provided herein. The final plat is to be drawn at a scale of one hundred feet (100') to the inch (1") from an accurate survey on one or more sheets whose maximum dimensions are twenty four inches (24") by thirty six inches (36"). If more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one sheet and the areas shown on the other sheets.

The City Council shall give notice of action within thirty (30) days of date of submission. The action of the City Council shall be noted on three (3) copies of the final plat, including reference to any attached documents describing conditions imposed. One copy shall be returned to the subdivider and the other retained in the files of the Planning Commission and City Council.

11.17.120 CREATION OF A PUBLIC STREET OUTSIDE A SUBDIVISION

- (A) The creation of a public street and the resultant separate land parcels shall be in conformance with the requirements for subdivision except, however, the Planning Commission shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:
1. The establishment of the public street is initiated by the City Council or County Court and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental affect rather than the primary objective of the street.
 2. The tract in which the street is to be dedicated is a major partition within an isolated ownership either of not over one acre of land or of such size and characteristics as to make it impossible to develop building sites for more than three (3) dwelling units.
- (B) In those cases where approval of a public street is to be without a full compliance with the regulations applicable to subdivision, a copy of a preliminary plan and the proposed deed shall be submitted to the City Manager at least five (5) days prior to the Planning Commission meeting at which consideration is desired. The plan, deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of this Chapter, shall be approved with the conditions necessary to preserve these standards.

11.17.130 CREATION OF A PRIVATE STREET OUTSIDE A SUBDIVISION

A street which is created in order to allow the partitioning of land for the purpose of transfer of ownership or building development, whether immediate or future, shall be in the form of a street in a subdivision or as provided in Section 11.17.120 of this Chapter, except that a private street to be established by deed without full compliance with this Chapter shall be approved by the Planning Commission, provided, it is the only reasonable method by which the rear portion of an unusually deep land parcel of a size to warrant partitioning into not over two (2) parcels may be provided with access. A copy of the preliminary plan to create a street and partition the tract will be submitted to the City Manager at least five (5) days prior to the Planning Commission meeting.

11.17.140 MAJOR PARTITIONING PROCEDURE

Major partition authorized by Section 11.17.120 and 11.17.130 shall be approved under the following conditions:

- (A) There shall be submitted to the City Manager a tracing of a preliminary plan eight and one-fourth by eleven inches (8 1/4" x 11"), or eighteen by fourteen-inches (18" x 14") in size with the following information:
1. The date, north point, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.
 2. The name and address of the record owner and of the person who prepared the tentative plan.
 3. Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning.
 4. For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets; location and size of water and sewer lines and drainage ways and the location of power poles.
 5. Outline and location of existing buildings to remain in place.
 6. Parcel layout, showing size and relationship to existing or proposed streets and utility easements.
 7. Such additional information as required by the Planning Commission.
- (B) The Planning Commission may define the circumstances under which an application for partitioning may be given routine administrative review and approval. Under this procedure, the City Manager shall check the proposal against the development plan and approve the proposal without submitting it to the Planning Commission.
- (C) If the location or type of land is not such as has been defined for routine administrative approval or if the proposed partitioning does not appear to comply with the requirements for routine administrative approval, the preliminary plan shall be submitted for the Planning Commission review and determination that the proposal will comply with this Chapter. The Planning Commission may require dedication of land and easements and may specify conditions or modifications in the preliminary plan as necessary. In no event, however, shall the Planning Commission require greater dedications or conditions than could have been required if the tract were subdivided.
- (D) When a preliminary plan has been approved, all copies shall be marked with the dates and conditions, if any, of the approval. When compliance with conditions has been assured, the plan shall be approved and then becomes the partition map.
- (E) All applicable requirements of ORS Chapter 92 shall be complied with.

11.17.150 STANDARDS AND IMPROVEMENTS

The design standards in Section 11.17.180, the improvement requirements in Section 11.17.090, and the provisions of Sections 11.17.100 and 11.17.110 shall apply to major partitions.

11.17.160 MINOR PARTITIONING PROCEDURE

The land partitions that do not contain a street dedication and which are not major partitions as defined in this Chapter shall be submitted for review and approval.

Requests for land partitioning other than subdividing or major partitioning shall follow the procedures set forth below and the requirements of ORS Chapter 92.

(A) Minor partition map shall include the following:

1. The map shall be a survey map that meets the requirements of the County Surveyor for filing the survey of the parcel.
2. The survey information to locate the parcel and the monuments set to identify its location.
3. The dimensions and area of the parcel proposal for approval.
4. A legal description of the parcel.
5. The name of the owner of the property.
6. The street that serves the parcel, its width and improvements.
7. Location of services to the parcels, including sewer, water, drainage, power and telephone.
8. Location of buildings, slope of land, drainage ways, trees, easements and any other features of the land important to its development.

11.17.170 APPLICATION FOR APPROVAL

Application shall include the original map and fifteen (15) copies filed with the City Manager. The map shall be reviewed by the City Manager and the chairman of the Planning Commission. They shall determine that the proposed parcel is consistent with the Zoning Ordinance, the subdivision regulations and that it has adequate City services and that, upon request, the proposed parcel could be issued a building permit.

If these conditions are met, three (3) copies and the original map shall be signed. The original shall be forwarded to the County Surveyor for filing as a recorded survey, a signed copy returned to the applicant, a signed copy filed in the Planning Commission files and a signed copy forwarded to the appropriate building department.

If the above conditions are not met, the map shall not be signed and the original map shall be returned to the applicant with the letter stating the reason for refusal. The applicant may modify the map or improve the parcel to meet the requirements or he may, within ten (10) days, request review by the Planning Commission at its next regular meeting. The Commission may uphold the decision of the staff, establish conditions of approving the application or approve the application as proposed.

11.17.180 DESIGN STANDARDS

(A) Relation to Adjoining Street System. The arrangement of streets in new subdivisions for the continuation of the principal existing streets in adjoining areas (or their proper projection where adjoining land is not subdivided) insofar as they may be deemed necessary by the Planning Commission for public requirements. The width of such streets in new subdivisions shall not be less than the minimum widths established herein. The street and alley arrangement shall be such as not to cause a hardship to owners of adjoining property when they plat their own land and seek to provide

for convenient access to it. In general, provisions should be made for through streets at intervals not exceeding one eighth (1/8) mile. Minor streets shall not exceed intervals of three hundred thirty feet (330'). Offset streets shall be avoided. The angle of intersection between major and minor streets shall not vary for more than ten degrees (10) from a right angle.

Streets obviously in alignment with existing streets shall bear the names of the existing streets. All proposed street names shall be checked against duplication of other street names.

If the subdivision abuts a present or proposed arterial thoroughfare, residential streets running parallel to the thoroughfare may be required.

- (B) **Minimum Right of Way and Roadway Width:** Unless otherwise indicated on the development plan, the street right of way and roadway widths shall not be less than the minimum widths in feet shown in the following table.

<u>Type of Street</u>	<u>Minimum Row</u>	<u>Minimum Roadway</u>
Alleys	20 feet	18 feet
Arterial	80 feet	44 feet
Collector Street	60 feet	38 feet
Cul-De-Sac	50 feet	36 feet
Residential Street	50 feet	36 feet

- (C) **Alleys** are not recommended except under very unusual conditions in a residential block. Where provided, a minimum width of fifteen feet (15') shall be required. Alleys are required to the rear of all business lots and shall be at least twenty feet (20') wide. A five foot (5') cutoff shall be made for all acute angle alley intersections.

- (D) **Easements:** Easements of at least six feet (6') in width shall be provided on each side of all rear lot lines and along side lot lines, where necessary, for poles, wires, conduits, storm and sanitary sewers, gas, water or other mains. Easements of greater width may be required along or across lots where necessary for the extension of main sewers or other utilities where both water and sewer lines are located in the same easement.

- (E) **Blocks:**

1. No block shall be longer than six hundred sixty feet (660') between cross streets without special exception.
2. In platting residential lots, depth and square footage minimums will conform to the zoning rules and regulations applying to the property.
3. All blocks shall have sufficient width to provide for two (2) tiers of building sites unless topography or the location of adjoining streets justifies an exception.
4. Where a tract of land is of such size or location as to prevent a lot arrangement directly related to the normal street arrangement, there may be established one or more thoroughfares in the form of a lane, cul-de-sac or other arrangement; provided, however, that proper access shall be given to all lots. A cul-de-sac or place shall terminate in an open space (preferably circular) having a minimum right-of-way radius of fifty feet (50') and a roadway radius of forty feet (40'). A cul-de-sac or lane shall not exceed four hundred fifty feet (450') in length.

- (F) **Lots:** The lot arrangements, design, and size shall be in accordance with the requirements of the proposed zone to which it is to be assigned.

- (G) **Building Lines:** Building lines shall be shown on all lots intended for residential use of any character and on commercial or industrial lots immediately adjoining residential areas. Such building lines shall not

be less than required by a zoning or building line regulation applying to the property. Where the subdivided area is not under zoning control, the subdivider shall establish building lines in accordance with the needs of each development, but in no case shall such building lines be less than twenty feet (20') from the right of way of the street or highway upon which the lot fronts. Restrictions requiring buildings to be set back to such building lines shall be shown on the plat.

- (H) **Character of Development.** The Planning Commission shall confer with the subdivider regarding the type and character of development that will be permitted in the subdivision and may agree with the subdivider as to certain minimum restrictions to be placed upon the property. In all cases, the development shall meet all regulations contained in pertinent City ordinances and State Statutes as to construction of buildings, use of the lot and/or structure which, unless so controlled, would clearly depreciate the character and value of the proposed subdivision and of adjoining property. Deed restrictions or covenants shall provide for the proper protection and maintenance of the development in the future; provided, however, that such deed restrictions or covenants shall not contain reversionary clauses wherein any lot shall return to the subdivider because of violation thereon of the terms of the restrictions or covenants.

Where the subdivision contains sewers, water supply systems, park areas, streets, trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and are not or cannot be satisfactorily maintained by the City, provision shall be made by trust agreement, made a part of the deed restrictions acceptable to any agency having jurisdiction over the location and improvement of such facilities, for the proper and continuous maintenance and supervision of such facilities.

- (I) **Land for Public Purpose:** Land for parks, recreational or other public purposes shall be governed as follows:

1. **Areas Required:** An area of land, the size of which shall be determined by the Planning Commission but not to exceed one acre for each one hundred (100) persons or an area equal to a fractional proportion of one hundred (100) to one acre, shall by the subdivider, be set aside and dedicated to the public for parks and recreational purposes; the potential population shall be computed at the rate of 3.25 persons per each potential unit in a single-family dwelling or two-family dwelling and 2.75 persons per each potential multiple family unit; such area or parcel in either case shall be approved by the Planning Commission as being suitable and adaptable for park and recreational use and in compliance with the Comprehensive Plan for the City.

2. **Payment in Lieu of Land:** If the Planning Commission determines that there is no need for open space or park property, or that there is no suitable park or recreation area or site in the proposed subdivision or adjacent thereto, then the subdivider shall, in lieu of setting aside land, pay into a park trust fund a sum of money equal to the market value of the land that would have been required in subsection 1 above.

a. **Market value shall be established by a professional land appraiser who is a candidate or member of the American Institute of Real Estate Appraisers or who has been certified by the State of Oregon as a certified appraiser. A date which is within sixty (60) days of the submission of the tentative plan shall be used for the purposes of fixing value (except that appraised value shall always be determined on a date subsequent to the parcel's annexation to the City). The City shall be responsible for securing the services of the professional appraiser as required in this Section. The subdivider is not prohibited from securing his own appraiser and submitting those appraisal figures for the Planning Commission's consideration.**

b. **The sum of money established by this procedure shall be paid to the City prior to the approval of the final plat by the Planning Commission.**

3. **Expenditure of Funds:** Funds contributed in lieu of park lands shall be credited to a park

acquisition trust fund, and shall be deposited with the City Treasurer for the purpose of acquiring or developing suitable areas. Such funds may be expended only on order of the City Council for the purpose of acquiring or developing land for park and recreational uses, and then only for such lands as the Commission and Council shall approve as suitable and adaptable for such purposes.

11.17.190 MINIMUM IMPROVEMENTS

(A) **Improvement Procedures:** In addition to other requirements, improvements installed by a land developer either as a requirement of this Chapter or at his own option shall conform to the requirements of this Chapter and improvement standards and specifications followed by the City, and shall be installed in accordance with the following procedure:

1. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the preliminary plan of a subdivision or partition.
2. Improvement work shall not commence until after the City is notified and if the work is discontinued for any reason, it shall be resumed only after the City has been notified.
3. Improvements shall be constructed under the inspection and to the satisfaction of the City Manager. The City may require changes in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.
4. Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length obviating the necessity for disturbing the street improvements when service connections are made.
5. A map showing public improvements as built shall be filed with the City upon completion of the improvements.

(B) **Specifications for Improvement:** The City Manager shall prepare and submit to the City Council specifications to supplement the standards of this Chapter based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the design and construction of required public improvements, such other public facilities as a developer may elect to install, and private streets.

(C) **Improvements in Subdivisions:** The following subdivision improvements shall be installed at the expense of the subdivider and at the time of the subdivision:

1. **Permanent Markers:** The subdivider will be required to furnish five (5) copies of a written statement with the final plat identifying the points where he agrees to place markers. As a general rule, all block corners as well as all necessary points of curve, tangency and radii shall be marked with permanent monuments. A permanent monument shall be deemed to be concrete with a minimum horizontal dimension of four inches (4") extending a minimum of three feet (3) into the ground.

A permanent bench mark based on the City datum shall be selected or installed which will be readily accessible and its location and elevation noted on the final plat.

2. **Street Improvements:** In every case, all public streets and ways shall be brought to the appropriate grade for their full width and drainage installed. Such grading and drainage shall be subject to inspection and approval by the City Manager within the City limits and by the County and/or City Manager within the established urban growth boundary area.
3. **Street grades** for each type of street shall be determined by the City Manager or his designate. The City Manager shall determine the necessity for and the technical requirements of all

reverse curves, street deflections, street jobs, dead end streets or cul-de-sacs and the decision of the City Manager with respect thereto shall be final.

4. Material requirements for new street construction shall be equal to, or exceed the following:
 - a. Residential: Six inch (6") curb face with an eighteen inch (18") gutter. Six inch (6") rock base to grade, and a minimum of one and one half inch (1 1/2") of all weather surface composed of three-fourths inch (3/4") of oil mat using 3/4 to 0 gravel, and three-fourths inch (3/4") of oil wearing surface using two (2) coats of oil containing 3/8 to 0 chips.
 - b. Cul-De-Sac: Same as residential.
 - c. Collector: Six inch (6") curb face with an eighteen inch (18") gutter. Six inch (6") rock base to grade with two inch (2") AC base and one inch (1") AC wearing surface.
 - d. Arterial: Six inch (6") curb face with an eighteen inch (18") gutter. Eight inch (8") rock base to grade with two inch (2") AC base with one inch (1") AC wearing surface.
5. The expense of opening new streets shall be the sole responsibility of the developer, however, the developer may contract with the City to rough-in right of way for any street and to construct all or part thereof under such terms and conditions as the City Council may from time to time prescribe.
6. Water Lines: Water lines shall be constructed and extended in accordance with City ordinances and policies, and shall be at the developer's expense.
7. Sewer Lines: Sewer lines shall be constructed and extended in accordance with City ordinance and policies, and shall be at the developer's expense.
8. Drainage: All facilities, as deemed necessary by the City Manager, to include French drains, shall be installed sufficient to prevent the collection of surface water in any low spot, and to maintain all natural watercourses.
9. Sidewalk Improvements: As a condition to the approval of the final plat, the Planning Commission shall require the installation of sidewalks to be constructed in accordance with pertinent City ordinances. Notwithstanding Ordinance 472, all sidewalks constructed in subdivisions created after the effective date of this Chapter, shall be placed adjacent to and abutting the curb line.

11.17.200 VARIANCES

- (A) Authorization: Where the Planning Commission finds that extraordinary hardship may result from strict compliance with this Chapter or in the public interest, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this Chapter. In granting variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.
- (B) Application: Application for a variance shall be made to the Planning Commission in writing on a form prescribed by the Commission. The applicant or developer shall state fully the grounds of the application, the facts relied upon and any other data pertinent to the granting of a variance in accordance with subsection (D) of this Section. Applications for a variance must be filed along with the preliminary plan.
- (C) Referrals: The City Manager shall transmit copies of the application for a variance to the Planning Commission, together with requests for recommendations on the proposed variance. Any variance

requested by an applicant or developer shall be made the subject of study and report by the Planning Commission. Because of the additional time the Commission may be required to properly evaluate a variance request in addition to other work, submission of a variance request by an applicant or developer shall automatically extend the time for Commission action on a subdivision by a thirty (30) day period.

- (D) Action of Planning Commission: A variance may be granted subject to prescribed conditions on matters other than those relative to health and safety, provided that the Commission shall make all of the following findings:
1. That there are special circumstances or conditions affecting the property that do not normally apply to other property and that such circumstances or conditions make it impossible or impractical to comply with this Chapter.
 2. That the variance is necessary for the proper design and/or function of the subdivision.
 3. That the granting of the variance is in accordance with the purposes and objectives prescribed in this Chapter.
 4. That the granting of the variance will not be detrimental to the public welfare or injurious to the other property in the area in which the property is situated.
 5. That the variance is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this Chapter.

11.17.210 APPEALS

- (A) A person may appeal to the City Council from a decision or requirement made by the Planning Commission or the City Manager. Written notice of the appeal must be filed with the City within fifteen (15) days after the decision or requirement is made. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Commission or the City Manager.
- (B) The City Council shall give notice to the subdivider and the Planning Commission of the date when the appeal of the subdivider is to be heard. At its next regular meeting, the City Council shall review the action of the Planning Commission and/or the City Manager and the written appeal of the subdivider and shall report its action to the subdivider and to the Planning Commission in writing within fifteen (15) days of such hearing. The Council may overrule or modify the decision or requirement made by the Planning Commission or the City Manager if the decision of the Council complies with the spirit and intent of this Chapter. The disposition of the appeal by the City Council shall be final.

11.17.220 AMENDMENTS

- (A) Authorization to Initiate Amendments: An amendment to the text of this Chapter may be initiated by the Nyssa Planning Commission, or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the City Manager using forms prescribed by the Planning Commission. Amendment may be proposed by any member of the Planning Commission at any meeting of the Planning Commission, and such proposed amendment must receive a majority vote of a quorum of the Planning Commission prior to submission for public hearing in accordance with subsection (B) hereof.
- (B) Public Hearings on Amendments: The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed and shall, within forty (40) days after the hearing, recommend to the City Council approval, disapproval or modification of the proposed amendment.
- (C) Record of Amendments: All amendments to the text of this Chapter shall be filed with all minutes of

meetings or hearing pertaining to the adoption of such amendments with the office of the City Clerk. Such amendments shall be maintained in the office of the City Clerk for so long as this Chapter remains in effect.

- (D) **Restriction on Resubmission of Proposed Amendment:** No application of a property owner for an amendment to the text of this Chapter shall be considered by the Planning Commission within the one year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it. (Ord. 481, 4-10-79)

CHAPTER 11.18 RURAL RESIDENTIAL ZONE (R-5)

11.18.010. PURPOSE

The purpose of this R-5 Rural Residential Zone is to provide areas for low-density residential development in a rural environment.

11.18.020 USES PERMITTED OUTRIGHT

The following uses may be permitted outright in an R-5 Zone:

- A. Single-family dwellings.
- B. Farm uses as defined in ORS 215.203(2), excluding feedlots.
- C. Home occupations, as defined in Section 11.01.030.
- D. Accessory buildings: Any accessory building greater than two hundred (200) square feet in lot coverage area shall have a residential appearance. This includes a wide variety of styles but excludes plain or common galvanized metal buildings which are utilitarian, lacking a combination of the following features to make them appear as residential accessory structures:
 - 1. An appearance which is consistent with or complimentary to the dwelling to which it is accessory. This is determined by consideration of roof height, pitch and overhang and by building siding and window styles; or
 - 2. Roof overhangs that appear to be in residential proportions to the height and bulk of the proposed building ranging from one to three (3) or more feet; or
 - 3. Have a mansard or other special roof design with appropriate overhangs.
- E. Residential home, as defined in Section 11.01.030.
- F. Manufactured home, as defined in Section 11.01.030 which meets the requirements of Section 11.03.020(E).

11.18.030. CONDITIONAL USES PERMITTED

The following uses and their accessory uses may be established when authorized in accordance with Chapter 11.13 of this Title:

- A. Uses permitted as Conditional Uses in an R-1 Zone.

11.18.040. DIMENSIONAL STANDARDS

The following dimensional standards shall apply:

- A. Lot Area: The minimum lot area shall be a nominal one acre or a larger area determined to be in compliance with the applicable Department of Environmental Quality rules and regulations regarding sewage disposal and water supplies, provided that:
 - 1. All dwelling units shall be connected to City water and waste water collection systems.
- B. Setbacks: No building or site-obscuring fence, other than a fence or facility associated with irrigation activities, shall be closer than forty feet (40') from a street or road right-of-way line, fifteen feet (15') from any other property line, twenty feet (20') from any major irrigation canal right of way, and one hundred feet (100') from the border line of an EFU, EFFU or ERU Zone. No sight-obscuring fence

exceeding three feet (3') in height shall be placed within the forty foot (40') street setback, also within this setback, shrubbery other than trees shall be maintained at heights not exceeding three feet (3').

- C. Residential Density Limitation: The maximum development density of residential dwellings (single-family and mobile home) permitted herein shall not exceed one dwelling unit for each one acre of residentially developed/developable land within the ownership. Detached single-family dwellings shall be on individual, legally created lots or parcels or may be part of a condominium development.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF NYSSA, OREGON; ALLOWING SINGLE FAMILY DWELLINGS AS OUTRIGHT PERMITTED USES IN MULTI-FAMILY MOBILE HOME ZONE (R-4); AND DECLARING AN EMERGENCY.

WHEREAS, the City Council has determined that it is in the best interest of the City to allow single family dwellings in multi-family mobile home zones as outright permitted uses; and

WHEREAS, amending the Zoning Ordinance complies with the City's Comprehensive Plan.

NOW THEREFORE, THE CITY OF NYSSA ORDAINS AS FOLLOWS:

SECTION 1. Section 11.06.020 of Chapter 11.06 of the City of Nyssa Municipal Code is hereby amended to include the following additional language at the end of the Section:

"(F) Single Family Dwellings."

SECTION 2. Declaration of an Emergency.

The Common Council of the City of Nyssa hereby adjudges that it is necessary for the immediate preservation of the peace, health and safety of the said City that this ordinance shall take effect immediately upon its passage and approval, and an emergency is hereby declared to exist and this ordinance will be in full force and effect immediately upon its passage by the Council and its approval by the Mayor.

SECTION 3: Declaring of an Emergency

EMERGENCY CLAUSE: The Common Council of the City of Nyssa hereby adjudges that it is necessary for the immediate preservation of the peace, health and safety of the said City that this ordinance shall take effect immediately upon its passage and approval, and an emergency is hereby declared to exist and this ordinance will be in full force and effect immediately upon its passage by the Council and its approval by the Mayor.

Passed by the Common Council of the City of Nyssa, Oregon, by the following votes this 8th day of August 2006. (1st Reading)

Ayes: Susan Walker, Kathy Flanders, Brent Huffman, Alicia Shell
Pat Brewer, Harry Flock, and Diego Castellanoz
Nays: None
Absent: None

Passed by the Common Council of the City of Nyssa, Oregon, by the following votes this 22nd day of August 2006. (2nd Reading)

Ayes: Susan Walker, Kathy Flanders, Alicia Shell
Pat Brewer, Harry Flock, and Diego Castellanoz.
Nays: None
Absent: Brent Huffman

Approved this 22nd day of August 2006.

ATTEST:

Beth Ann Christensen CPA
Beth Ann Christensen, City Recorder

Susan K. Walker
Susan K. Walker, Mayor

FILED
10:16 A.M.

DEC 10 2006

DEBORAH R. DELONG County Clerk
By Sherrill Childs Deputy

APPENDIX A

VACATING OF STREETS AND ALLEYS OR PORTIONS THEREOF IN THE CITY.

ORDINANCE	SUBJECT
121	Alleys - Block 11 and 12
182A	Plat - Westfield Addition
260	Eighth Street - Alley-East and West - Block 84 - unnamed street on South Side of Block 84
268	Plat - Emison Addition - streets and alleys therein
271	Alley - Block 86 - Westfield Addition
298	Reece Avenue
304	Alley - Block 15 - Teutsch Addition
305	Green Avenue
324	Oregon Street and Pine Avenue - Alley - Block 17 Teutsch Addition
330	Ennis Avenue - Alley - Block 85 - Westfield Addition
339	Eighth Street between Ehrgood Avenue and State Highway 20
357	Alley - Block 29 - Teutsch Addition
358	Alley - Block 19 - Teutsch Addition
359	Alley - Block 89 - Westfield Addition
382	Maple Avenue between Sixth and Seventh Streets - Alley Block 33 -Park Addition - Alley Block 19 - Teutsch Addition
387	Park Avenue between State Highway 20 and Eleventh Street
401	Eighth Avenue between Ehrgood Avenue and North Line - East -West Alley - Block 85 - Westfield Addition
406	Park Avenue between First Street and the Oregon Short Line Railroad
407	Alley - Block 61 - Green Addition
418	South Sixth and Eighth Streets
420	Alley - North and South - Block 31 - Teutsch Addition
450	Alley - Block 8 - Original Townsite to the City of Nyssa
497	Green Avenue between the east line of North First Street and Union Pacific Railroad right of way

APPENDIX A (cont.)

VACATING OF STREETS AND ALLEYS OR PORTIONS THEREOF IN THE CITY.

ORDINANCE	SUBJECT
511	Alley - Block 87 - Westfield Addition
515	Bower Avenue, between Block 6 and 7
519	Alley - Block 76 - Green's Addition
531	Portion of Ennis Avenue in between Blocks 18 and 19, and the alley in Block 19, Original Townsite, City of Nyssa
555	Portion of Commercial Avenue, Morgan Addition
571	PORTION OF 8TH STREET, ^{BETWEEN} BLOCK 85 AND 86, WESTFIELD ADDITION, SOUTH END HALF OF BLOCK

APPENDIX B

FRANCHISES

ORDINANCE	SUBJECT
366; amd. by Ord. 444	Natural Gas System
366; amd. by Ord. 445	Electric Utility System
371	Telephone Utility System
427	Cable TV
458; amd. by Ord. 564	Natural Gas and/or Manufactured Gas Utility System
463; replaced by Ord. 567	Idaho Power Company
465; amd. by Ord. 536	Telephone Utility System
478; amd. by Ord. 496; 500; 507	Treasure Valley Tele-Cable, Inc.