

1.100 GENERAL PROVISIONS

1.101 TITLE

This Ordinance shall be known and may be referred to as the City of Falls City Zoning and Development Ordinance.

1.102 PURPOSE

The purpose of this ordinance is to implement the goals and policies of the City of Falls City Comprehensive Land Use Plan through the adoption and coordination of planning and development regulations that provide for the health, safety and general welfare of the citizens of Falls City.

1.102.01 CONFORMANCE REQUIRED

The use of all land, as well as the construction, reconstruction, enlargement, structural alteration, movement, use, or occupation of any structure within the City of Falls City shall conform to the requirements of this Ordinance. The provisions of this Ordinance apply to any person developing or using land or a structure, and to the person's successor(s) in interest.

1.102.02 CONSISTENCY WITH PLAN AND LAWS

Each development and land use application and other procedure initiated under this Ordinance shall be consistent with the adopted Comprehensive Plan of Falls City as implemented by this Ordinance, and with applicable state and federal laws and regulations. All provisions of this Ordinance shall be construed in conformity with the adopted Comprehensive Plan.

1.102.03 PRE-EXISTING APPROVALS

- A. Legality of pre-existing approvals. Developments, including subdivisions, projects requiring site design review approval, or other development applications for which approvals were granted prior to the effective date of this Ordinance, may occur pursuant to such approvals.
- B. Subsequent development applications. All development approvals received by the City after the adoption of this Ordinance shall be subject to review for conformance with the standards under this Ordinance or as otherwise provided by state law.

1.102.04 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

- A. Building Permit. A building permit shall not be issued until the City has issued a development permit in accordance with the provisions of Sections 2.200 and 2.201, or otherwise found that a development permit is not required.
- B. Certificate of Occupancy Required. To ensure completion of a development or use in the manner approved, a development shall not be occupied and a use shall not begin until the

Polk County Building Official has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable land use and building permits.

- C. Prior to Final Completion. Prior to the final completion of all work, a certificate of occupancy may be issued for a portion of the structure conditioned upon further work being completed by a date certain.

1.102.05 OFFICIAL ACTION

- A. Official Action. All state, county and City officials, departments, and employees vested with authority to issue permits, licenses or certificates shall adhere to and require conformance with this Ordinance, and shall issue no permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Ordinance.
- B. Conflicting Approval Void. Any permit or approval issued or granted in conflict with the provisions of this Ordinance shall be void.
- C. Notice. The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this Code.

1.102.06 INTERPRETATION

The provisions of this Ordinance shall be held to be minimum requirements. Wherever the requirements of this Ordinance differ from the requirements of any other lawfully adopted rules, regulations, resolutions, or ordinances, the more restrictive, or that imposing the higher standards, shall govern.

When there is doubt regarding the intent of this Ordinance as interpreted by the City Staff, the Planning Commission may issue an interpretation of the question if they have first determined that such interpretation is within their power and is not a legislative act.

The Planning Commission may request an interpretation of this Ordinance by the City Council.

1.102.07 SAVINGS CLAUSE

Should any section, clause or provision of this Ordinance be declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Ordinance as a whole or of the remaining sections. Each section, clause and phrase is severable.

1.102.08 CONFLICTING ORDINANCES

All zoning, subdivision, and other land development ordinances previously enacted by the City are herewith superseded and replaced by this Ordinance.

1.102.09 SEVERABILITY

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

1.103 VIOLATIONS

- A. It shall be unlawful for any person to violate any provision of this Ordinance, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision except as variation may be allowed under this Ordinance.
- B. Any use which is established, operated, erected, moved, altered, enlarged, or maintained contrary to this Ordinance shall be and is hereby declared to be unlawful and a public nuisance, and the Council may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent and temporarily or permanently enjoin, abate, or remove the violation. Abatement may be pursued as provided by City ordinance or any other applicable law.

1.103.01 INSPECTION AND RIGHT OF ENTRY

Whenever any official, department, representative or employee of the City shall have cause to suspect a violation of any provision of this Ordinance or when necessary to investigate an application for or revocation of any City approval under any of the procedures prescribed in this Ordinance, officials responsible for enforcement or administration of this Ordinance, or their duly authorized agent or representative, may enter on any site or into any structure for the purpose of investigation, provided they do so in a reasonable manner. No secured building may be entered without consent of owner or occupant. No owner, occupant, or agent thereof shall, after reasonable notice and opportunity to comply, refuse such entry.

1.103.02 FINES

Violation of any provision of the Falls City Zoning and Development Ordinance shall be punishable, upon conviction, by a fine of not more than \$500 for each offense; a violation shall be considered a separate offense for each day that the violation continues. "Violation" shall include failure to comply.

1.104 ESTABLISHMENT OF ZONING DISTRICTS

1.104.01 DISTRICTS

For the purposes of this Ordinance, the incorporated area of the City of Falls City, Oregon, is hereby divided into the following Zoning Districts:

<u>ZONE</u>	<u>ABBREVIATED DESIGNATION</u>
Residential Zone	R
Commercial/Residential Zone	CR
Commercial/Industrial Zone	CI
Public Open Space Zone	P
Public Assembly/Institutional Zone	PAI
Forestry Zone	F

1.104.02 BOUNDARIES

- A. The zoning district boundaries are shown on the zoning map of the City of Falls City, Oregon, Zoning Map for 1979 as amended. This map is hereby made a part of this Ordinance by reference. Any future changes to the zoning of land within the City of Falls City, which are approved under the provisions of this ordinance, shall be depicted on the Zoning Map.
- B. The Planning Commission shall resolve any dispute over the exact location of a zoning district boundary. In interpreting the location of such boundaries on the Zoning Map, the Planning Commission shall rely on the Falls City Comprehensive Plan Map and the following guidelines for the location of zoning district boundaries: section lines; property lines; lot lines; centerlines of streets, alleys, streams, or railroads right-of-ways; City boundaries; or other planning criteria determined appropriate by the Planning Commission. Any decision of the Planning Commission regarding the location of a zoning district boundary may be appealed to the City Council pursuant to the general procedures outlined for appeal requests in Chapter 3 of this Ordinance.

1.200 GENERAL DEFINITIONS

1.201.01 PURPOSE

The following words and phrases, when used in this Ordinance, shall have the meanings set forth in this section, except in those instances where the context clearly indicates a different meaning.

1.201.02 INTERPRETATIONS

Words used in the masculine include the feminine, and feminine the masculine. Words used in the present tense include the future. The singular number includes the plural. The word “shall” is mandatory and not directory. The word “may” is permissive. All terms in this Ordinance have their commonly accepted, dictionary meaning unless they are specifically defined in the following section or the context in which they are used clearly indicates to the contrary.

1.202.02 DEFINITIONS

Access: The way or means by which pedestrians and/or vehicles shall have safe, adequate and usable ingress and egress to property. A private access is an access not in public ownership and is controlled by means of deed, dedications or easement.

Accessory Structure: A detached, subordinate building or portion of a main building or to the use of the land, but does not include dwellings or living quarter.

Accessory Use: A use incidental, appropriate and subordinate to the main use of the parcel, lot or structure.

Adjacent: Contiguous or bordering on a given line, exclusive of streets. It shall include the terms abutting, adjoining, or contiguous.

Alteration, Structural: Any change in the exterior dimensions of a building or a change or repair which would affect or materially change a supporting member of a building, such as a bearing wall, column, beam, or girder.

Annexation: The incorporation of a land area into the City with a resulting change in the boundaries of the City.

Area of Special Flood Hazard: The land in the flood plain subject to a one (1) percent or greater chance of flooding in any given year.

Bed and Breakfast: A structure designed and occupied as a residence and in which sleeping rooms are provided on a daily or weekly basis for use by travelers or transients for a charge or fee paid for the rental or use of the facilities. An operator of a Bed and Breakfast must be a permanent, full-time resident of the structure where the use takes place.

Bike Lane: A portion of a roadway which has been designated by striping and pavement markings for the preferential or exclusive use of bicycles.

Block: A parcel of land bounded by 3 or more streets, railroad rights-of-way, waterways, or a combination thereof.

Boarding, Lodging or Rooming House: A building where lodging, with or without meals, is provided for compensation for not more than 5 persons in addition to members of the family occupying such building.

Building: A structure having a roof and built for the support, shelter or enclosure of persons, animals, or property of any kind.

Building Envelope: The 3-dimensional space on a parcel which may be occupied by a building.

Building Official: An individual empowered by the City Council to administer and enforce the State Building Code.

Building Storm Drain: That part of the piping of a stormwater drainage system which begins at the connection to the building drain and conveys stormwater to an approved point of disposal.

Camping Vehicle: Either a vacation trailer or a self-propelled vehicle or structure equipped with wheels for highway use and which is intended for human occupancy and for vacation and recreational purposes, but not for residential purposes, and is equipped with plumbing, sink or toilet.

City: The City of Falls City, Oregon.

Clear-Vision Area: A triangular area on a lot at the intersection of two (2) streets or a street and a railroad, Two (2) sides of which are lines measured from the corner intersection of the right-of-way lines. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lines at the intersection have rounded corners, the right-of-way will be extended in a straight line to a point of intersection.

Clinic: A facility for examination and treatment for human ailments conducted by a group of physicians, dentists, or other licensed practitioners, or on an outpatient basis and not involving overnight housing of patients.

Club: An organization, group, or association supported by the members thereof, the purpose of which is to render a service primarily for members and their guests, but shall not include any organization, group, or association the chief activity of which is to render a service customarily carried on as business for profit.

Commission: The Planning Commission of the City of Falls City, Oregon.

Common Open Space: An area, feature, or building or other facility within a development designed and intended for the use or enjoyment of all occupants of the development or for the use and enjoyment of the general public.

Community Building: A publicly owned and operated facility used for meetings, recreation or education.

Comprehensive Plan: The adopted long-range plan and policies for the growth of the City of Falls City, Oregon, including all adopted supporting documents, as may be amended from time to time.

Conditional Use: A use which may be permitted by the Planning Commission following a public hearing, upon findings by the Commission that the approval criteria have been met or will be met upon satisfaction of conditions of approval.

Council: The City Council of Falls City, Oregon.

Culvert: A culvert is a structure used to enclose a flowing body of water. It may be used to allow water to pass underneath a road, driveway, sidewalk or pedestrian access, railway, or embankment.

Days: Any reference to days shall mean calendar days. If a time limit falls on Saturday, Sunday, or a holiday, the time limit shall be extended to the next following working day.

Day Care Facility: An institution, establishment or place, not a part of a public school system, in which are commonly received three (3) or more children, not of common parentage, under the age of 14 years, for a period not exceeding 12 hours per day for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

Deck: A floored area that adjoins a residence or other structure. A deck may include a roof.

Dedication: The designation of land by its owner for any public use as shown on a subdivision or partition plat, or deed.

Density: The number of dwellings, manufactured homes, or manufactured home spaces per gross acre.

Development: All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage or activities.

Discretionary: Describes a permit action or decision that involves substantial judgment or discretion.

Driveway: Areas that provide vehicular access to a site except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking space areas.

Dwelling: A “dwelling unit” is a living facility that includes provisions for sleeping, eating, cooking and sanitation as required by the Uniform Building Code, for not more than one family, or a congregate residence of 10 or less persons (UBC 205).

Dwelling, Duplex or Two-Family: A building containing two attached dwelling units on one lot or parcel.

Dwelling, Multi-Family: A building Containing 3 or more dwelling units designed for occupancy by 3 or more families living independently of each other.

Dwelling, Single-Family: A detached building containing one dwelling unit designed exclusively for occupancy by one family.

Easement: A right of usage of real property granted by an owner to the public or to specific persons, firms, or corporations.

Employees: All persons normally working on the premises during the largest shift. The estimated number of employees of a new business shall be determined by the Planning Commission and the number of employees of an established business shall be determined from an examination of the payroll.

Encroachment: Any obstruction in the flood plain which affects flood flows.

Egress: A driveway or point from a property onto a public street or highway.

Face: To front upon.

Fence: An unroofed barrier or an unroofed enclosing structure or obstruction constructed of any materials including but not limited to, wire, wood, cement, brick, and plastic.

Fence, Sight-Obscuring: A fence or evergreen planting arranged in such a way as to obstruct vision.

Final Plat: See ‘Plat’.

Flag Lot: A lot or parcel which has access to a public road, street or easement, by means of an easement or a narrow strip of land.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of Special Flood Hazards (flood plain) and the risk premium zones.

Flood Insurance Study (FIS): The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

100-year Floodplain: Lands within the city that are subject to a one (1) percent or greater chance of flooding in any given year.

Floodproofing: A combination of structural and non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

Floodway: The channel of a river or other water course and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway Fringe: The area of a flood plain lying outside of the floodway, but subject to periodic inundation.

Floor Area: The sum of the gross horizontal areas under a roof of all floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

- A. Attic space providing headroom of less than seven (7) feet.
- B. Basement, if the floor above is less than 6 feet above grade.
- C. Uncovered steps or fire escapes.
- D. Private garages, carports, or porches.
- E. Accessory water towers or cooling towers.
- F. Off-street parking or loading spaces.

Frontage: The dimensions of a property line abutting a public or private street.

Grade: The average elevation of the finished ground at the centers of all walls of a building; except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation opposite the center of the wall shall constitute the ground elevation.

Group Care Home: A home or private institution maintained and operated for the care, boarding or training of one or more persons.

Guest House: A detached accessory building used as sleeping quarters for guests of the occupants of the main dwelling on a non-commercial basis and having no cooking facilities. Such structures shall not exceed 600 square feet in size, and shall not be used as separate housekeeping units or rental units.

Height of Building or Structure: The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or the highest gable of a pitch or hip roof.

Holding Tank: A watertight receptacle designed to receive and store sewage to facilitate disposal at another location.

Home Occupation: A legal occupation or profession carried on within a dwelling or a residential accessory structure by the resident(s) of the dwelling when such occupation or profession is secondary to the main residential use of the dwelling or accessory structure. The residential character of the property is maintained in a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term. A home occupation shall not include the outside storage of equipment or materials.

Hotel: Any building in which lodging is provided to guest for compensation, and in which no provision is made for cooking in individual rooms.

Ingress: An entrance point onto a property, such as a driveway.

Junk Yard: The use of more than 200 square feet of the area of any property for the storage of salvage materials, including scrap metals or other scrap materials, or for the dismantling or "wrecking" of automobiles, or other vehicles or machinery, whether or not such uses are conducted as a business for profit or otherwise.

Kennel: Any lot or premises on which 4 or more dogs, and/or cats or animals over the age of 4 months are kept for lease, boarding, or training.

Loading Space: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot: A unit of land created by a subdivision of land (ORS 92.010(3)) or otherwise lawfully created (ORS 92.017).

Lot Area: The total surface area (measured horizontally) within the lot boundary lines. For flag-shaped lots, the access strip shall not be included in lot area for the purposes of minimum lot area requirements of this Ordinance.

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

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

Lot Depth: The horizontal distance measured 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 Adjustment: The relocation of a common property line between two contiguous lots or parcels, which does not create any new lots or parcels.

Lot Line, Front: The property line separating the lot from the street, other than an alley. In the case of a corner lot, the shortest property line along a street, other than an alley.

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

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

Lot, Through: An interior lot having frontage on two streets.

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

Lowest Floor: The lowest floor of the lowest enclosed area, including basement. For purposes of Section 2.205.06, Standards for Special Flood Hazard Area only, an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor.

Manufactured Home: A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with Federal manufactured housing construction and safety standards and regulations in effect at the time of construction and sited on a single-family residential lot outside a manufactured home park, meeting the following standards:

- A. The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet;
- B. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located above grade to a height comparable to the height of nearby single-family, site-built homes, with not more than 24 inches of foundation exposed;
- C. The manufactured home shall have a pitched roof of a slope not less than a nominal three (3) feet in height for each 12 feet in width (3/12);

- D. The manufactured home shall have exterior siding and roofing material commonly permitted on residential dwellings under the Uniform Building Code;
- E. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the State Building Code as defined in ORS 455.010, as amended. Any unit manufactured within 10 years from the date of application shall be deemed to meet this subsection; and
- F. The manufactured home shall have a garage or carport constructed of like materials enclosing a space of not less than 300 square feet, which shall be completed not more than 18 months after the date of approval of the application to site the manufactured home.
- G. A manufactured home shall not be sited in any area designated in an acknowledged Comprehensive Plan or land use regulation as an historic district or on residential land immediately adjacent to an historic landmark.

Manufactured Home Park: Any place where four or more manufactured homes or similar mobile home units are located within 500 feet of one another on a lot, tract, or parcel of land of one or more acres under the same ownership, the primary purpose of which is to rent the homes or the home space or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental, lease, or use of facilities or to offer space free in connection with securing the trade or patronage of such person. A person shall not construct a new manufactured home park or add lots to an existing manufactured home park without approval by the Department of Commerce. “Manufactured home park” does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured home per lot if the subdivision was approved pursuant to Section 3.210 of this Ordinance.

Master Plan: A sketch or other presentation showing the ultimate development layout of a parcel or property that is to be developed in successive phases.

Mini-Warehouse Storage: An area or areas located within an enclosed building or structure designed and intended to be used for the rental of storage units to individuals for the safekeeping of personal items.

Mobile Home: A manufactured home as defined in this ordinance.

Mobile Home Park: A manufactured home park as defined in this ordinance.

Modular or Prefabricated Home: A dwelling unit whose components are assembled and brought to the site and erected. The dwelling unit is intended and designed to be placed upon a permanent foundation and substantial construction is needed before it is complete and ready for permanent occupancy. Modular or prefabricated homes are regulated by the Oregon Structural Specialty Code.

Motel: A building or group of buildings containing rooms designed for lodging, with or without cooking facilities which are available for rent and in which each lodging unit has a separate entrance from the building exterior. The term includes auto courts, tourist courts, tourist homes, and motor lodges.

New Construction: Structures for which construction was initiated on or after the effective date of this Ordinance.

Nonconforming Structure: A lawfully existing structure or use at the time of this Ordinance or any amendments thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

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

On-site Sewage Disposal System: Any existing or proposed on-site sewage disposal system including, but not limited to a standard subsurface, alternative, experimental or nonwater-carried sewage disposal system, installed or proposed to be installed on land of the owner of the system or on other land as to which the owner of the system has the legal right to install the system. This does not include systems that are designed to treat and dispose of Industrial Waste defined in OAR Chapter 340, Division 45. On-site sewage disposal system is also known as a “Standard Subsurface System.”

Open Space: Land dedicated to the ownership within a development or to the public specifically for the purpose of providing places for recreational uses or for scenic purposes. Open space dedication shall guarantee the use for open space purposes in perpetuity.

Owner: The owner of record of real property as shown on the latest tax rolls or deed records of Polk County, and includes a person who furnishes evidence that they are purchasing a parcel of property under a written recorded or unrecorded land sale contract.

Parking Space: An enclosed or unenclosed surfaced area exclusive of maneuvering area and access area, permanently reserved for the temporary storage of an automobile and connected with a street or alley by a surfaced driveway that affords ingress and egress for automobiles.

Parking versus Storage: Parking is the area used for leaving motor vehicles for a temporary time. Storage is to place or leave in a location for maintenance, repair, sale, rental, or future use.

Partition: To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit, or contiguous units of land under a single ownership at the beginning of such year. "Partition" does not include:

- A. Divisions of land resulting from lien foreclosures, divisions of land resulting from contracts for the sale of real property, and divisions of land resulting from the creation of cemetery lots; or
- B. A sale or grant by a person to a public agency or public body for State highway, County road, or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.213(2)(q) to (s) and 215.283(2)(p) to (r)

Pedestrian Connection: A continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, walkways, accessways, stairways and pedestrian bridges. On developed parcels, pedestrian connections are generally hard surfaced. In parks and natural areas, pedestrian connections may be soft-surfaced pathways. On undeveloped parcels intended for redevelopment, pedestrian connections may also include right-of-way or easements for future pedestrian improvements.

Pedestrian Way: A right-of-way for pedestrian traffic.

Permit: Any form or written approval pertaining to the use of land rendered by the City.

Permitted Use: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district as provided in the Zoning and Development Ordinance.

Person: Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

Planning Commission or Commission: The Planning Commission of Falls City, Oregon.

Plat: The final map which is a diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or partition which is prepared as specified in ORS 92.080. All plats shall conform to sections 3.209 through 3.210 of this Ordinance.

Private Property: A tax lot as recorded in the records of Polk County, regardless of the number of lots of record contained therein.

Professional Office: An office building occupied by an accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, land use planner, insurance agent, real estate broker, landscape architect, practitioner of the human healing arts, or other professional business similar in type, scale and character.

Public Facilities and Services: Projects, activities, and facilities which are necessary for the public health, safety, and welfare.

Quasi-Judicial: Refers to an action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Ordinance, and usually involves a public hearing.

Recreational Vehicle: A vacation trailer or other vehicular or portable unit which is either self-propelled or towed or is carried by a motor vehicle and which is intended for temporary human occupancy and is designed for vacation or recreational purposes but not residential use. Recreational vehicles includes travel trailers, pick-up campers, motor homes and camping and tent trailers.

Recreational Vehicle Park Campground: Any area operated and maintained for the purposes of picnicking or providing space for overnight use by recreational vehicles.

Reserve Strip: A strip of land, usually one foot in width, deeded to the City, reserved across the end of a street or alley at the boundary of a subdivision or partition; or a strip of land deeded to the City between a dedicated street and adjacent property; in either case reserved or held by the City for future street extension or widening, or to prohibit access from property adjacent to a street.

Residential Care Facility: A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

Residential Home: A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

Right-of-Way: The full length and width of a public street or way, planned or constructed.

Sanitary Drainage System: That part of the system of drainage piping that conveys untreated sewage from a building or structure to a septic tank or other treatment facility, service lateral at the curb or in the street or alley, or disposal terminal holding human or domestic sewage. The sanitary drainage system consists of a building drain or building drain and building sewer.

School, Elementary, Junior High, or High School: An institution, public or parochial, offering instruction in the several branches of learning and study, in accordance with the rules and regulations of the State Department of Education.

School, Trade or Commercial: A building where instruction is given to pupils for a fee in money or otherwise, which fee is the principal reason for the existence of the school.

Septic Tank: A watertight receptacle which receives sewage from a sanitary drainage system, is designed to separate solids from liquids, digest organic matter during a period of detention, and allow the liquids to discharge to a second treatment unit or to a soil absorption facility.

Service Station: Any lot used primarily for the retail sales of motor vehicle fuels and lubricants for delivery on premises, and minor automobile repair and service.

Setback: The minimum allowable horizontal distance from a property line to the nearest portion of a structure. "Portion" includes but is not limited to foundation, pier foundation, eaves, porches, decks and vertical walls.

Sign: Any writing, including letter, word, or numeral; pictorial presentation, including mural, illustration or decoration; emblem, including device, symbol or trademark; flag, including banner or pennant; or any other device, figure or similar thing which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or structure or device; and is used to announce, direct attention to, or advertise; and is visible from any public right-of-way. Sign does not include house numbers or any display of official notice or official flag. For purposes of Section 2.204, Signs, the following definitions apply:

Abandoned Sign: Any sign, which represents or displays any reference to a business or use that has been discontinued for more than one year or for which no valid business license is in effect in the City.

Accessory Sign: Any sign, which is located on the same property, lot or parcel as the use, object, project, place, activity, service or persons to which it refers.

Alteration or Altered: Any change in the size, shape, method of illumination, position, location, construction, or supporting structure of a sign. A change in sign copy or sign face alone shall not be considered an alteration.

Area: The area of a sign shall be the entire area within any type of perimeter or border that encloses the outer limits of any writing, representation, emblem, figure, or character. If the sign is enclosed in a frame or cabinet, the area is based on the inner dimensions of the frame or cabinet surrounding the sign face. When a sign is on a base material and attached without a frame such as a wood board or Plexiglas panel, the dimensions of the base material are to be used. The area of a

sign having no such perimeter, border, or base material shall be computed by enclosing the entire area within a parallelogram or a triangle of the smallest size sufficient to cover the entire message of the sign and computing the area of the parallelogram or triangle. For the purpose of computing the number of signs, all writing included within such a border shall be considered one sign except for multi-faced signs on a single sign structure which shall be counted as one sign per structure. The area of multi-faced signs shall be calculated by including only one-half the total area of all sign faces.

Awning: A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

Banner Sign: A sign intended to be hung, with or without framing, and possessing characters, letters, illustrations, or ornaments applied to fabric or similar material. Flags, insignia, awning signs, posters, and temporary signs treated elsewhere in this Ordinance shall not be considered “banner signs.”

Bench Sign: A sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

Billboard Sign: A sign, which directs attention to a business, profession, product, activity, or service that is not conducted, sold, or offered on the premises where the sign is located.

Blanket or Blanketing: When applied to signs or sign structures, the partial or complete shutting off of the face of one sign by another sign.

Building Face: The outer surface of any building which is visible from any private or public street highway or alley.

Building Frontage: The portion of a building face most closely in alignment with an adjacent right-of-way or fronting a parking lot when so defined, as allowed in this Ordinance. A gasoline service station may use the overhanging canopy as a substitute for building frontage when computing the allowable sign area. The longest side of the canopy shall be used to compute the allowable sign area.

Canopy Sign: A sign hanging from a canopy or eave at any angle relative to the adjacent wall, the lowest portion of which is at least eight (8) feet above the underlying grade.

Directory Sign: A sign on which names the locations of occupants or the use or uses of a building. This includes signs for office buildings, church directories,

multiple signs for arcades, and similar commercial buildings using standard-format business signs.

Flashing Sign: An illuminated sign any part of which pulsates or blinks on and off, except time and temperature signs and message signs allowed by conditional use.

Free-Standing Sign: A sign not attached to a building but having its own permanent foundation and support.

Incidental Signs: A sign which is normally incidental to the allowed use of the property, but can contain any message or content. Such signs can be used for, but are not limited to, nameplate signs, warning or prohibition signs, and directional signs not otherwise allowed.

Marquee: A permanent roofed structure attached to and supported by a wall of a building or structure. Marquee signs shall be considered under the same provisions as wall signs.

Message sign: A sign which can change its message electronically and is designed to display various messages including, but not limited to, signs displaying time and temperature.

Non-Accessory Sign: Any sign which is not located on the same property as the use, object, project, place, activity, service or person to which it refers.

Nonconforming Sign: Any sign located within the City limits of Falls City on the date of adoption of this Ordinance, which does not conform with the provisions of Section 2.204, Signs, but which did conform to all applicable laws in effect on the date the sign was originally erected.

Portable Sign: Any sign that is not originally designed to be permanently affixed to a building, structure, or the ground. A sign originally designed, regardless of its current modification, to be moved from place to place. These signs primarily include, but are not limited to, A-frame or sandwich board signs, signs attached to wood or metal frames and designed to be self-supporting and movable, and also including trailer reader boards. Portable signs are not to be considered temporary signs as defined and used in this Ordinance.

Projecting Sign: A sign the face of which is not parallel to the wall on which it is mounted, projecting more than 12 inches from a structure.

Real Estate Sign: A sign for the purpose of rent, lease, sale, etc. of real property, building opportunities, or building space.

Roof Sign: A sign erected, constructed and maintained upon the roof of a building or structure.

Sign Face: Surface of a sign containing the message. The sign face shall be measured as set forth in the definition for “Sign Area.”

Sign Height: Height is measured from the grade of the curb line lowest to the base of the sign to the highest point of the sign, sign structure or frame, whichever is the highest point of the sign. In the absence of a curb line, the edge of the street pavement shall be used. In the absence of street pavement, the ground level shall be used to measure the height.

Sign Projection: The distance by which a sign projects over a public right-of-way.

Sign Structure: Any structure which supports or is capable of supporting any sign. A sign structure may be a single pole and it may be an integral part of the building.

Temporary Sign: Any non-illuminated sign intended to be displayed for a limited time only.

Wall Sign: A sign attached to, erected against or painted on a wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the face of said wall and not projecting more than 12 inches. A sign painted on an awning in which the face of the sign is approximately parallel to and within 3.5 feet of the wall shall also be considered a wall sign.

Start of Construction: The date a building permit is issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement occurs within 180 days of the permit date.

Storage: Placement anywhere on private property outside of a legally-existing, enclosed structure for a period in excess of 72 hours.

Storm Drain, Private: A storm drain located on private property serving parking lot catch basins or more than one structure on the same premises, and not operated or maintained by the City.

Storm Drain, Public: Any storm drain in a public right-of-way or easement operated or maintained by the City.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall constitute a story.

Street: The entire width between the boundary lines of every way of travel which provides for public or private use for the purpose of providing ingress and egress for vehicular and pedestrian traffic and the placement of utilities to one or more lots, parcels, areas, or tracts of land. A private way is excluded that is created to provide ingress and egress to land in conjunction with the use of such land for forestry, mining, or agricultural purposes. Streets include the following:

Alley: A thoroughfare not more than 20 feet and not less than 10 feet in width, which has been dedicated or deeded to the public for public use providing a secondary means of access to abutting property.

Arterial: A street of considerable continuity which is used primarily for through traffic and intercommunication between major areas of the City.

Collector: A street supplementary to the arterial street system and used partly by through traffic and partly for access to abutting properties.

Cul-de-sac (dead-end): A short street with one end open to traffic and the other terminated by a vehicle turn-around.

Half-Street: A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided during the development of adjacent property.

Frontage Road: A service road parallel and adjacent to an arterial street, providing access to abutting properties, but protected from through traffic.

Minor (Local) Street: A street intended primarily for access to abutting properties, but protected from through traffic.

Subdivide: To divide an area or tract of land into 4 or more lots within a calendar year when such land exists as a unit or contiguous units under a single ownership. (ORS 92.010(13))

Substantial Improvement: The cost of any repair, reconstruction or improvement of a structure equal to or greater than 50 percent of the market value before such alteration occurred.

Tax Lot: A lot designation created by the County Assessor for the purpose of levying property taxes.

Temporary Use: A use that is (1) seasonal or directed toward a specific event; or (2) occasioned by an unforeseen event.

Tentative Plan: A clearly legible and approximate drawing of the proposed layout of streets, blocks, lots and other elements of a subdivision or partition which shall help furnish a basis for the approval or disapproval of the general layout of the subdivision or partition. For the purposes of this Ordinance, the terms "preliminary" and "tentative", as use in Chapter 92, Oregon Revised Statutes, shall be synonymous.

Trailer (Travel or Vacation): See Recreational Vehicle

Unstable Soil: Any soil type, as defined by the U.S. Natural Resources Conservation Service and identified in the Comprehensive Plan, which has severe limitations for development due to potential flooding, erosion, structural instability or inadequate sewage waste disposal.

Urban Growth Boundary: An adopted boundary around the City which defines the area in which the City expects to grow, where public facilities will be extended, and where joint planning responsibilities are exercised with Polk County.

Vacate Plat or Street: To abandon a subdivision or street right-of-way. For example, vacation of a public right-of-way that is not needed or cannot be used for a street or other public purpose. A plat may be vacated, returning the property to an undivided condition.

Variance: A modification from a quantifiable standard or requirement of this Ordinance.

Veterinary Clinic: A facility designed to contain treatment and temporary care facilities for the cure and prevention of ailments or injuries of domestic animals, including both domestic pets and farm animals, under the direction of a licensed veterinarian.

Visual Obstruction: Any fence, hedge, tree, shrub, device, wall or structure between the elevations of three and eight feet above the adjacent curb height or above the elevation of the street edge where there is no curb, as determined by the Public Works Director or City Engineer, as so located at a street, drive, or alley intersection as to limit the visibility of pedestrians or persons in motor vehicles on said streets, drives, or alleys.

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

Yard Depth: The minimum horizontal distance between any point on a lot line and the nearest part of any structure or building.

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

Yard, Rear: A yard extending across the full width of the lot between the most rear primary building and the rear lot line, but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line .

Yard, Side: A yard, between the primary building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard or the rear lot line if no rear yard is required. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the primary building.

1.300 ORDINANCE ADMINISTRATION

The City Planning Commission or public agency empowered by the City shall have the power and duty to enforce the provisions of this Ordinance. An appeal from a ruling by the Planning Commission or public agency regarding a requirement of this Ordinance may be made only to the City Council.

1.400 CITIZEN AND AGENCY INVOLVEMENT

The City shall provide opportunities for public and agency input in the planning process. Through the mechanisms provided in the Citizen Involvement Program, the City shall submit applications to the citizens for comment and review. To assure the involvement of affected agencies in the planning process, applications shall be submitted to appropriate local, state, and federal agencies for their review and comment.

2.100 ZONING DISTRICTS

2.101 RESIDENTIAL ZONE (R)

2.101.01 PURPOSE

The purpose of the Residential Zone is to preserve existing residential areas for future residential housing opportunities.

2.101.02 AREAS OF APPLICATION

The Residential Zone may be applied to those areas where the site has been designated Residential on the Comprehensive Plan.

2.101.03 PERMITTED USES

- A. Single Family Dwelling.
- B. Manufactured Home as defined in this Ordinance and developed pursuant to 2.209.02.
- C. Manufactured Home Park pursuant to Section 2.209.06.
- D. Two-family Dwelling (Duplex).
- E. Public Park and Recreation Area.
- F. Planned Unit Developments developed pursuant to 3.211.
- G. Child care facility, as defined by Oregon Revised Statutes Chapter 657A.
- H. Residential home, as defined by this ordinance. All residential care homes shall be duly licensed by the State of Oregon.

2.101.04 ACCESSORY USES

In the Residential Zone the following uses, buildings and structures, which are customarily incidental to a permitted use in this zone may be established on the same lot therewith. The specific standards as provided in Section 2.203, Accessory Structures, shall apply:

- A. Fence, providing it does not exceed a height of four (4) feet in a front yard area, as required by Section 2.201.08, Fences, Walls, and Hedges.
- B. Garage or Carport Structures enclosing a space of not less than 300 square feet;
- C. Greenhouse, not used for retail or wholesale purposes;
- D. Guest house without cooking facilities;

- E. Tool or Storage Shed;
- F. Home Occupation, subject to the provisions of Section 2.209.04.
- G. Temporary Hardship Dwelling, pursuant to Section 2.209.03

2.101.05 CONDITIONAL USES

The following uses are permitted as conditional uses, provided that such uses are approved pursuant to Section 3.201, Conditional Use Permits.

- A. Church;
- B. Public or private school;
- C. Professional Office;
- D. Community building;
- E. Utility facility, including utility right-of-way;
- F. Bed and breakfast;
- G. Boarding house;
- H. Multi-family Dwelling.

2.101.06 DEVELOPMENT STANDARDS

A. Dimensional Standards

- 1. Single-family dwellings and manufactured homes on individual lots:
 - a. Minimum Lot Area: 10,890 square feet.
 - b. Minimum Lot Width: 75 feet at the front building line.
 - c. Minimum Average Lot Depth: 100 feet.
- 2. Duplex and triplex dwellings:
 - a. Minimum Lot Area: 8,000 square feet for the first unit, plus 3,000 square feet for each additional unit.
 - b. Minimum Lot Width: 80 feet at the front building line.
 - c. Minimum Average Lot Depth: 100 feet.

3. Apartments, Townhouses and Condominiums:
 - a. Maximum Permitted Density: 12 units per acre.

B. Structure Setbacks:

1. The front yard setback shall be a minimum of 20 feet.
2. The minimum side yard setback for single-family dwellings, manufactured homes on individual lots, duplex units and triplex units shall be five (5) feet, except that the side yard adjacent to a street on a corner lot shall be a minimum of 20 feet.
3. Apartment, townhouse and condominium units shall maintain a minimum setback of 10 feet from the perimeter side yard of the project, except that the side yard adjacent to a street on a corner lot shall be a minimum of 20 feet.
4. The rear yard setback for any permitted use shall be a minimum of 20 feet, except that an accessory structure of 200 square feet or less shall maintain a minimum of a 5-foot rear yard.

C. Structure Height: Structure height shall not exceed 35 feet.

D. Site Design Review: Triplex, apartment, townhouse and condominium dwellings shall be subject to site design review in accordance with the provisions of Section 3.104.

2.101.07 EXCEPTIONS TO DIMENSIONAL STANDARDS

- A. The dimensional standards of this zoning district may be modified as provided in Sections 2.200 and 2.201.
- B. The uses permitted and dimensional standards of this district may be modified in accordance with the provisions of Section 3.211, Planned Unit Development.

2.101.08 SIGNS

In the Residential Zone the following signs are permitted:

- A. Residential or Home Occupation Name Plates: Shall not exceed two (2) square feet. Only one such sign shall be permitted upon the premises.
- B. Real Estate Signs: Not exceeding six (6) square feet which advertise the sale, rental, or lease of the premises upon which the sign is located. Real estate signs may be used up to two (2) years without a permit.
- C. Identification Sign: Non-illuminated or non-flashing, indirectly illuminated by a concealed light source, no more than 20 square feet in area, designating a subdivision, or development, as permitted by this Ordinance.

2.101.09 ADDRESSING

For all residential uses, the front of the home shall face the street on which the address will be placed. Minimum six-inch high reflective address numbers shall be at the front of the main building or at the driveway access.

2.102 COMMERCIAL-RESIDENTIAL ZONE (CR)

2.102.01 PURPOSE

To provide for a mixture of residential uses and general commercial uses in areas of mixed land use.

2.102.02 AREA OF APPLICATION

This district is to be applied to those areas designated Commercial-Residential on the Comprehensive Plan Map.

2.102.03 PERMITTED USES

- A. Any primary use permitted in the Residential zone.
- B. Retail sales outlet including but not limited to food stores, pharmacy, furniture store, hobby or photography store, florist, liquor store, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, jewelry, gift, and other types of retail activities.
- C. Retail and service related stores such as TV and radio sales and service, bicycle shop, gunsmith, equipment rental, upholstery shop or other similar activities where a service department customarily a secondary activity to the retail use.
- D. Service-related businesses such as barber shops, beauty shops, advertising agencies, self-serve laundry, dry cleaning, printing or photocopying, or other activities where the primary activity is the providing of a service to retail customers.
- E. Preschools, nurseries and kindergartens.
- F. Nonprofit member organizations, such as business associations, labor unions, political organizations or fraternal lodges.
- G. Public automobile parking as specified in Section 2.202, Off-street Parking and Loading..
- H. Public and semi-public buildings, structures and uses, such as parks, municipal offices, libraries, police and fire stations, churches and houses of worship, and hospitals.
- I. Public utility structures and buildings, such as pump stations, reservoirs, electric substations, and necessary right-of-way for identified public utilities.
- J. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; and miscellaneous offices such as detective agencies, drafting services or contractors offices.
- K. Professional offices.

- L. Banks and other financial institutions.
- M. Mortuary, including crematorium.
- N. Greenhouse and garden supply.
- O. Restaurants, drive-ins, taverns, snack shops and other types of eating and drinking establishments.
- P. Amusement and recreation related businesses such as bowling alleys, miniature golf, pool halls, motion picture theaters, video arcades, and other types of amusement and recreational businesses.
- Q. Hotel and Motel.
- R. Residences which are located on the second story above a permitted-use commercial building.
- S. Temporary Hardship Dwelling, pursuant to Section 2.209.03

2.102.04 ACCESSORY USES

Uses which are normally accessory and incidental to a primary use permitted in the Residential shall be permitted within this zone.

2.102.05 CONDITIONAL USES

The following uses are allowed subject to the provisions of Section 3.201, Conditional Use Permits, and completing a Site Design Review, subject to the provisions of Section 3.203.

- A. Any conditional use permitted in the Residential Zone.
- B. Recreational vehicle park and/or campground facility, subject to the provisions of Section 2.209.05.
- C. Automobile, truck, motorcycle, trailer, recreational vehicle and boat sales and repair.
- D. Retail tire sales, service and repair; tire recapping, service and repair, paint and body shop.
- E. Automobile service station, including towing services and vehicle washing and polishing facilities, and services.
- F. Part and accessory sales for automobiles, trucks, motorcycles, trailers, recreational vehicles and boats.
- G. Lumber yard and contracting supplies for lumber, stone, masonry or metal (sales only).

- H. Special trade contracting facilities, such as floor layering, building equipment, masonry and stone, plumbing, electrical, metal work or painting.
- I. Welding shop and blacksmith where activities are conducted wholly within a building.
- J. Newspaper, periodical, publishing and printing.
- K. Tractor and farm equipment, logging equipment, sales and service.
- L. Veterinary clinic.
- M. Cabinet shop, conducted wholly within a building.
- N. Tent and awning shop.

2.102.06 DEVELOPMENT STANDARDS AND SIGNS

- A. Commercial uses shall be subject to the development standards, sign provisions and limitations on use set forth in the Commercial-Industrial Zone.
- B. Residential uses shall be subject to the sign provisions of the Residential Zone and to the development standards of the Residential Zone which apply to the type of dwelling proposed.

2.102.07 LIMITATIONS ON USE

- A. All business, services, processing, or merchandise displays shall be conducted wholly within an enclosed building except for the following:
 - 1. Off-street parking or loading.
 - 2. Drive-through windows or service stations.
 - 3. Temporary display and sales of merchandise provided it is under cover of a projecting roof and does not interfere with pedestrian, bicycle, or automobile circulation.
 - 4. Business which, in all cases, require outdoor storage of merchandise, e.g., automobile, RV sales lots, or gas stations.
- B. Not more than 50 percent of the floor area of the building and not more than 25 percent of the lot area of the commercial enterprise shall be used in the manufacturing, processing, or compounding of products.

2.102.08 DIMENSIONAL STANDARDS

The following minimum dimensional standards shall be required for all development in the Commercial-Residential Zone.

- A. Single-family dwellings and manufactured homes on individual lots:
 - 1. Minimum Lot Area: 10,890 square feet.
 - 2. Minimum Lot Width: 75 feet at the front building line.
 - 3. Minimum Average Lot Depth: 100 feet.

- B. Nonresidential uses in the Commercial-Residential Zone: Unless otherwise provided in Sections 2.200 and 2.201, and as required below, there shall be no minimum lot area and no required yards.
 - 1. The side yard shall be not less than 15 feet when adjacent to the Residential Zone.
 - 2. The rear yard shall be not less than 20 feet when adjacent to the Residential Zone.

2.102.09 EXCEPTIONS TO DIMENSIONAL STANDARDS

The dimensional standards of this district may be modified as provided in Section 2.200 and 2.201.

2.102.10 ADDRESSING

For all residential uses, the front of the home shall face the street on which the address will be placed. Minimum six-inch high reflective address numbers shall be at the front of the main building or at the driveway access.

2.103 COMMERCIAL-INDUSTRIAL ZONE (CI)

2.103.01 PURPOSE

This section is adopted to provide areas to meet the commercial and industrial needs of the residents of the city.

2.103.02 AREA OF APPLICATION

This district is to be applied to those areas designated Commercial and Industrial on the Comprehensive Plan Map.

2.103.03 PERMITTED USES

- A. Any Commercial use permitted as a principle use in the Commercial-Residential Zone.
- B. Industrial Uses:
 - 1. Manufacturing, repairing, compounding, processing, and storage;
 - 2. Wholesale distributing facility or warehouse including;
 - 3. Utility facility;
 - 4. Processing, packaging, or storage of food or beverages
- C. Other uses as determined by the Planning Commission to be similar to the above uses.
- D. Temporary Hardship Dwelling, pursuant to Section 2.209.03.

2.103.04 ACCESSORY USES

The following uses will be allowed as accessory uses in the Commercial-Industrial Zone:

- A. Temporary buildings for uses incidental to construction work that shall be removed upon completion or abandonment of the construction work.
- B. Any other accessory use and structure, not otherwise prohibited, customarily accessory and incidental to a permitted principal use.

2.103.05 CONDITIONAL USES

The following conditional uses may be permitted in the Commercial-Industrial Zone when approved pursuant to Section 3.210, Conditional Use Permits.

- A. A recreational vehicle park and/or campground facility, subject to the provisions of Section 2.209.05.

2.103.06 PROHIBITED USES

- A. Rendering plants
- B. Wrecking, demolition, junk yards, including recycling firms
- C. Any other use which is or can be operated in such a manner as to create a dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt, or other forms of air pollution; electrical or other disturbance; glare; or other substance, condition or element in such amount as to adversely affect the surrounding area or premises

2.103.07 LIMITATIONS ON USE

In the Commercial-Industrial Zone the following special development limitations shall apply:

- A. Site Design Review, in accordance with the provisions of Section 3.203, shall be required for the development of, or the expansion of, buildings or uses in the CI zone. Site Design Review shall also be required for remodeling of structures in association with a change in the use of an existing structure in the CI Zone.
- B. A sight-obscuring fence or landscape materials shall be installed around outdoor storage or repair areas abutting or facing the Residential or Residential-Commercial Zone.
 - 1. The fence or wall shall obstruct the storage from view on the sides of the property abutting or facing these zones and shall be at least six (6) feet in height or the maximum height of the stored materials, whichever is greater.
 - 2. The fence or wall shall be of such material and design that it will reduce noise emanating from the site; and have an appearance and be maintained so as not to detract from the adjacent residences or commercial activities.
- C. Outside storage in a required yard shall not exceed eight (8) feet in height.
- D. The Planning Commission may impose the following conditions before a site design review is approved for a proposed development:
 - 1. Limit or prohibit access to streets not designated as arterials or collectors in the Comprehensive Plan, if the principal uses along the block are residential.
 - 2. Require the dedication of additional street right-of-way where needed to meet city standards or where the nature of the development warrants an increased width.
 - 3. Such other conditions as are reasonably necessary to meet the requirements of the goals and policies of the Comprehensive Plan and this Ordinance.

2.103.08 DIMENSIONAL STANDARDS

- A. Setback Requirements: Unless otherwise provided in Sections 2.200 and 2.201, and as required in (1) and (2) below, there shall be no required yards in the CI zone.
 - 1. The side yard shall be not less than 20 feet when adjacent to a residential zone;
 - 2. The rear yard shall be not less than 20 feet when adjacent to a residential zone.
- B. Structure Height: Structure height shall not exceed 40 feet.

2.103.09 EXCEPTIONS TO DIMENSIONAL STANDARDS

The dimensional standards of this district may be modified as provided in Sections 2.200 and 2.201.

2.103.10 LANDSCAPING

- A. A minimum of six (6) percent of the total lot area shall be landscaped. Plant materials should achieve a balance between low-lying and vertical shrubs and trees.
- B. Landscaping required by this sub-section shall be reviewed by the Planning Commission as a part of the Site Design Review application. Landscaping shall be installed prior to the issuance of an occupancy permit or, alternatively, its installation within six (6) months of occupancy may be guaranteed through a performance bond or other instrument acceptable to the City Attorney.
- C. All landscaping shall be continually maintained, including necessary watering, weeding, pruning and replacement of plant materials, in a substantially similar manner as originally approved by the Planning Commission, unless altered with their approval.

2.103.11 SIGNS

The following requirements shall apply to signs located within the Commercial-Industrial Zone. Plans for such signs shall be submitted and reviewed as a part of the Site Design Review application.

- A. One free-standing or ground mounted identification sign shall be allowed for a development. Such signs shall be limited to 40 square feet of area, but may be double-faced. Identification signs shall not exceed 25 feet in height.
- B. On-building signs shall be limited to 20 square feet in area and shall not project outward from the surface of the building more than 12 inches.
- C. Signs may be internally or indirectly illuminated but shall not be intermittently lit or flashing.

2.104 PUBLIC OPEN SPACE ZONE (P)

2.104.01 PURPOSE

The purpose of the Public Open Space Zone is to preserve and manage the public open space areas inventoried by the City for the open space and recreational needs of the residents of Falls City.

2.104.02 AREA OF APPLICATION

The Public Open Space Zone is applied to those areas designated as Public Open Space on the Comprehensive Plan Map.

2.104.03 PERMITTED USES

- A. Public outdoor recreation facilities, such as parks, swimming pools, golf courses and playgrounds.
- B. Nature trails, nature preserves or scenic areas.

2.104.04 ACCESSORY USES

The following uses may be established in conjunction with a primary use on the same property when such uses are customarily accessory and incidental to the primary use:

- A. Caretaker's residence;
- B. Restroom;
- C. Information and interpretive centers;
- D. Maintenance buildings.

2.104.05 CONDITIONAL USES

In the Public Open Space Zone the following uses may be permitted when approved in accordance with the provisions of Section 3.201, Conditional Use Permits:

- A. Gymnasiums, clubhouses, and community centers;
- B. Enclosed swimming pools and similar health and exercise facilities;
- C. Hospitals and overnight clinics;
- D. Recreational vehicle park and/or campground facility, subject to the provisions of Section 2.209.05.

- E. Semi-public facilities such as churches, synagogues, temples, cemeteries, monasteries, and convents.

2.105 PUBLIC ASSEMBLY / INSTITUTIONAL ZONE (PAI)

2.105.01 PURPOSE

It is the purpose of the Public Assembly / Institutional Zone to recognize and permit certain existing public and semi-public land uses and to provide for development of such uses.

2.105.02 AREA OF APPLICATION

The Public Assembly / Institutional Zone is applied to areas designated Public Assembly and Institutional on the Comprehensive Plan Map.

2.105.03 PERMITTED USES

The following uses and their accessory uses are permitted within the PAI Zone:

- A. Public, Private or Parochial Schools.
- B. Fire Station.
- C. City Hall and Municipal offices.
- D. Sewage Treatment Facilities.
- E. Water Pumping, Storage, and/or Treatment Facilities.
- F. Public Library.
- G. Public Park, Playground and/or Athletic Facilities.
- H. Hospital.
- I. Nursing Home.
- J. Community Building.
- K. Church.
- L. Cemetery.
- S. Temporary Hardship Dwelling, pursuant to Section 2.209.03.

2.105.04 STANDARDS AND LIMITATIONS

- A. Site Design Review, in accordance with the provisions of Section 3.203, shall be required for the development of, or the expansion of buildings or uses within the PAI Zone.

B. Setbacks and height requirements within the PAI Zone shall conform to the standards of the R-1 zoning district. These standards may be modified without the requirement for a variance when the Planning Commission determines, at the time of Site Design Review, that:

1. Such standards are unreasonable or unnecessary for the proposed use; and
2. Lesser standards would reasonably protect the character of the surrounding area and uses.

2.106 FORESTRY ZONE (F)

2.106.01 PURPOSE

It is the purpose of the Forestry Zone to permit and preserve resource uses on lands where such uses exist and where it has been determined that such lands will not be needed for urban uses within the planning period of the Comprehensive Plan.

2.106.02 AREA OF APPLICATION:

The Forestry Zone is applied to areas designated Forestry on the Comprehensive Plan Map.

2.106.03 PERMITTED USES

The following uses and their accessory uses are permitted within the Forestry Zone:

- A. Management, production, and harvesting of forest products.
- B. Crop cultivation, including farm, truck garden or plant nursery.
- C. One dwelling unit, including single-family residence or mobile home, for use by the owner, operator or employees in conjunction with a forestry or agricultural use on the property.
- D. Temporary Hardship Dwelling, pursuant to Section 2.209.03.

2.106.04 STANDARDS AND LIMITATIONS

- A. Lot Area: The minimum lot size in the F Zone shall be 10 acres.
- B. Setbacks:
 - 1. The minimum front yard setback shall be 20 feet.
 - 2. The minimum side yard setback shall be 10 feet, except that a minimum setback of 20 feet shall be maintained on a side yard abutting a street.
 - 3. The minimum rear yard setback shall be 25 feet.
- C. Structure Height: The maximum structure height in the F Zone shall be 35 feet.

2.106.05 SIGNS

In the Forestry Zone signs shall be subject to the limitations and standards set forth in the Residential Zone.

2.106.06 EXCEPTIONS TO DIMENSIONAL STANDARDS

The dimensional standards of this district may be modified as provided in Sections 2.200 and 2.201.

2.106.07 ADDRESSING

For all residential uses, the front of the home shall face the street on which the address will be placed. Minimum six-inch high reflective address numbers shall be at the front of the main building or at the driveway access.

2.200 GENERAL DEVELOPMENT STANDARDS

2.200.01 LOTS OF RECORD

- A. A lot or parcel is a legal lot of record for purposes of this Ordinance when the lot conforms to all zoning requirements, Subdivision Ordinance requirements, and Comprehensive Plan provisions, if any, in effect on the date when a recorded separate deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract.
- B. A lot or parcel, which is a separate legal lot or parcel prior to the adoption of this provision, shall remain a separate legal lot regardless of ownership.
- C. The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use is commenced. Non-conforming lots of record are exempt from lot area, lot width, and street frontage requirements. However, no dwelling shall be built on an existing lot less than 3,000 square feet in area.

2.200.02 AUTHORIZATION OF SIMILAR USE

The Planning Commission may permit, in a particular instance, a use not listed in this Ordinance providing the use is of the same general type and impact on adjoining properties as the uses permitted by this Ordinance.

2.200.03 STRUCTURE HEIGHT EXCEPTIONS

- A. Public, quasi-public or public service buildings, including hospitals, educational institutions, and schools, may be erected to a height not exceeding 60 feet, and churches or temples may be erected to a height not exceeding 75 feet, provided the required yards are increased by one foot for each foot of additional building height above the height regulations for the zone.
- B. Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles and other similar objects not used for human occupancy may exceed the structure height restrictions of this Ordinance.

2.200.04 SOLAR APPARATUS AND SOLAR ACCESS

- A. The use of solar energy systems, including solar collectors, storage facilities, and distribution components for space heating and cooling and domestic water heating shall be a permitted use within all zones, whether as a part of a structure or incidental to a group of structures nearby.
- B. Solar collectors, and the equipment used for the mounting and operation of such collectors, where necessary, may be elevated above the height limitation in residential

zones. However, elevation of solar collectors shall not restrict solar access to adjacent properties.

2.200.05 USE OF RECREATIONAL VEHICLES AS GUEST QUARTERS

Usage of a Recreational Vehicle as temporary guest quarters in conjunction with a dwelling on the same lot shall be permitted providing such Recreational Vehicle remains dependent upon the primary dwelling for either, or both, kitchen and bathroom facilities and is not used for residential purposes. There shall be a time limit of 30 days for such usage, after which a temporary permit must be obtained for each succeeding 30-day period. A permit for the succeeding 30-day period(s) must be obtained by the 31st day. The City Council shall be notified prior to the issuance of the second temporary permit.

2.200.06 ADDRESSING

All new developments and expansion of existing developments shall provide minimum six-inch high reflective address numbers at the front of the main building near the main entrance. For all residential uses, the front of the home shall face the street on which the address will be placed.

2.201 YARD AND LOT STANDARDS

2.201.01 MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS

No lot area, yard, other open space, or off-street parking or loading area existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance.

2.201.02 GENERAL YARD REQUIREMENTS

- A. In determining the depth of a front yard for property which fronts onto a street with less than 50 feet of right-of-way, the required depth shall be measured from a line parallel to and 25 feet distant from the centerline of the street.
- B. Regardless of other provisions in this Ordinance, carport and garage structures (attached or detached) on which the main opening is toward a street, shall maintain a minimum setback of 20 feet from the street right-of-way.

2.201.03 GENERAL EXCEPTIONS TO YARD REQUIREMENTS

- A. In residential zones the following general exceptions to yard requirements shall apply:
 - 1. If there are dwellings that do not meet the minimum front yard setback provisions of the applicable zone abutting on both sides of a vacant lot, the front yard for a proposed structure on the vacant lot may be reduced to the average of the adjoining setbacks.
 - 2. If there is a dwelling on one abutting lot with a front yard of less depth than that required for the zone, the minimum front yard for the vacant lot may be reduced to the average of the setback of the existing dwelling and the front yard required by the zone.
- B. In a district where automobile service stations are permitted, freestanding gasoline pumps and pump islands, identification signs, and lighting standards may occupy a required front or street side yard. In any zone, gasoline pumps and pump islands shall not be closer than 10 feet to a street right-of-way.
- C. In a commercial or industrial zone, if any alley is adjacent to a required side or rear yard, the distance for a required yard may be measured from the center of the alley.

2.201.04 PROJECTIONS INTO REQUIRED YARDS

Architectural features and certain structures may project into required yards under the following provisions:

- A. Eaves, chimneys, steps, and other ornamental architectural features may project into the required yard not more than one-third the distance of the setback requirement, and not exceeding 40 inches into any required yard adjoining a street right-of-way.
- B. Open fire escapes may project a maximum of 48 inches.
- C. An uncovered porch, terrace, patio, or underground structure extending no more than 30 inches above the finished adjacent ground elevation may extend within 3 feet of a side lot line or within 10 feet of a front or rear lot line.

2.201.05 VISION CLEARANCE

- A. A vision clearance area shall be maintained at each access to a public street and on each corner of property at the intersection of two streets or a street and a railroad. A vision clearance area shall contain no planting, sight-obscuring fence (open chain link excluded), wall, structure, or temporary or permanent obstruction exceeding three (3) feet in height, measured from the ground. Trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above the ground.
- B. The preceding provisions shall not apply to the following:
 - 1. Public utility poles.
 - 2. A tree trimmed (to the trunk) to a line at least eight (8) feet above the level of the intersection.
 - 3. Another plant species of open growth habit that is not planted in the form of a hedge and which is so planted and trimmed as to leave at all seasons a clear and unobstructed cross view.
 - 4. A supporting member or apparatus connected to a permanent building lawfully existing on the date this standard becomes effective.
 - 5. An official warning sign or signal.
 - 6. A place where the natural contour of the ground is such that there can be no cross-visibility at the intersection.
 - 7. The post section of a pole sign when there are no more than two (2) posts and any post is less than 8 inches in diameter.
 - 8. Telephone switch boxes provided they are less than 10 inches wide at the widest dimension.
- C. A vision clearance area shall consist of a triangular area, two sides of which are right-of-way lines or a right-of-way line and access easement line (see attached diagram).

Where the lot lines have rounded corners, the right-of-way lines shall be extended in a straight line to a point of intersection and so measured. The third side of the triangle shall be a line connecting the non-intersecting ends of the other two lines. The distance used to establish the vision-clearance triangle shall be as follows:

1. In a residential zone, 30 feet or, at intersections including an alley, 10 feet.
 2. In all other zones, where front and side yards are required, the minimum distance shall be 15 feet, or at intersections including an alley, 10 feet.
- D. Where the interior angle of intersection between the two lot lines is less than 60 degrees, the above minimum distances shall be increased by 50 percent.
- E. For single use residential driveways, the vision clearance area shall consist of a triangular area, two sides of which are the curb line and the edge of the driveway. Where no curbs exist, the future location of the curb based on future full-street improvements shall be used.

2.201.08 FENCES, WALLS AND HEDGES

A. Materials

1. Fences, walls and hedges shall not be constructed of nor contain any material that could cause bodily harm, such as barbed wire, broken glass, spikes or any other hazardous or dangerous materials. Electric fences are not permitted.
2. Electric or barbed wire fences intended to contain or restrict cattle, sheep, horses or other livestock, and existing prior to annexation to the City, may remain. Use of barbed wire is as follows:
 - a. Agricultural uses may utilize electric and barbed wire fencing.
 - b. Conforming and City-approved businesses may use fencing in a commercial or industrial zone district with a height limit of six (6) feet. This may include the use of one foot of double barbed 12-1/2 gauge fencing at the top portion. Approval of a fence with barbed wire higher than six (6) feet requires the approval of a variance request.
3. All required swimming pools, spas, and hot tub fencing shall be a minimum of four (4) feet in height and be equipped with a self-locking gate that closes automatically.

B. Standards

1. Fences, walls and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision areas. A fence, wall or hedge may not exceed six (6) feet in height without approval of a variance.

2. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair including noticeable leaning, missing sections, broken supports, non-uniform height, and uncontrolled growth of vegetation.
3. Fences, walls and hedges shall not exceed four (4) feet in height along the front property line or within a front yard setback. Fences, yards and hedges shall not exceed four (4) feet in height for a distance of 10 feet from the front property line on side yards adjacent to a street.
4. In no instance shall a fence extend beyond the property line including into a public right-of-way. It is the responsibility of the property owner to determine the property line.

2.202 OFF-STREET PARKING AND LOADING

2.202.10 PURPOSE

The purpose of this Section is to provide adequate means for the parking, maneuvering, loading and unloading of vehicles for all land uses in the City.

2.202.01 SCOPE

Development of off-street parking and loading areas for commercial, industrial, or multi-family development shall be subject to the Site Design Review procedures of Section 3.203

The provisions of this Section shall apply to the following types of development:

- A. Any new building or structure erected after the effective date of this Ordinance.
- B. The construction or provision of additional floor area, seating capacity, or other expansion of an existing building or structure.
- C. A change in the use of a building or structure, which would require additional parking spaces or off-street loading areas under the provision of this Section.
- D. As a condition of approval in a land use decision.

2.202.02 LOCATION

Off-street parking and loading areas shall be provided on the same lot with the main building or structure or use except that:

- A. In any residential zone or for any residential use permitted in a nonresidential zone, automobile parking areas may be located on another lot if such lot is within 200 feet of the lot containing the main building, structure or use;
- B. In any nonresidential zone, the parking area may be located off the site of the main building, structure or use if it is within 500 feet of such site.

2.202.03 JOINT USE

Parking area may be used for a loading area during those times when the parking area is not needed or used. Parking areas may be shared subject to City approval for commercial and industrial uses where hours of operation or use are staggered such that peak demand periods do not occur simultaneously. The requirements of Section 2.202 may be reduced accordingly. Such joint use shall not be approved unless satisfactory legal evidence is presented which demonstrates the access and parking rights of parties.

- A. Residential:
 - 1. One-family and Two-family Dwelling 2 spaces per dwelling unit.
 - 2. Multiple-family Dwelling 1.5 spaces per dwelling unit
 - 3. Boarding, Lodging or Rooming House 1 space per 2 guest accommodations
- B. Public/Semi-Public Uses:
 - 1. Convalescent Hospital Nursing Home, Sanitarium, Rest Home, Assisted Living Facility. 1 space per 2 beds for patients
 - 2. Hospital 3 spaces per 2 beds.
 - 3. Library, Reading Room. 1 space per 400 square feet of floor area
 - 4. Day care facility 2 spaces per classroom.
 - 5. Elementary or Junior High School. 2 spaces per classroom.
 - 6. High School. 5 spaces per classroom.
 - 7. Other Places of Public Assembly, Including Churches. 1 space per 4 seats or 8 feet of bench length.
 - 8. Government Buildings 2 spaces per 600 square feet of floor area.
- C. Commercial Uses:
 - 1. Theater, movie theater 1 space per 4 seats.
 - 2. Amusement and Recreational Services 1 space per 200 square feet of floor area.
 - 3. Retail Store 1 space per 300 square feet of floor area
 - 4. Service or Repair Shop; Retail Store handling exclusively bulky merchandise such as automobiles and furniture. 1space per 600 square feet of floor area
 - 5. Financial Institutions, Banks, Professional Offices 1 space per 500 square feet of floor area plus 1 space per employee
 - 6. Mortuary 1 space per 4 seats or 8 feet of bench length
 - 7. Motel or Hotel 1 space per guest room
 - 8. Restaurant 1 space per 3 seats or 6 feet of bench length
- D. Industrial Uses:
 - 1. Manufacturing Establishment. 1 space per 25,000 square feet of floor area plus 1 space per 0.75 employees
 - 2. Wholesale Establishment, Warehouse, Rail or Truck Freight terminal. 1 space per 2,000 square feet of floor or storage area plus 1 space per employee.

2.202.04 Off-Street Parking Requirements

Off-street parking shall be provided as required by Section 2.202.07, Design Requirements, and approved by the City in the amount not less than listed below. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property, but shall exclude space devoted to off-street parking or unloading.

2.202.05 OFF-STREET LOADING REQUIREMENTS

Buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to adequately handle the needs of the particular use.-

- A. The following standards shall be used in establishing the minimum number of berths required:

<u>Gross Floor Area</u>	<u>Number of Berths</u>
Up to 10,000 Sq. Ft.	1
10,000 Sq. Ft. and Greater	2

- B. A loading berth shall contain a space that is at a minimum of 12 feet wide and 35 feet long and have a vertical clearance of 14 feet. Where the vehicles generally used for loading and unloading exceed these dimensions, the required size of these berths shall be increased.

2.202.06 PARKING AND LOADING AREA REQUIREMENTS

- A. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show an area that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking and loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until such time as the increased off-street parking and loading requirements are observed.
- 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, and expectations of parking and loading need.
- C. In the event that several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately, unless a reduction is approved for shared parking pursuant to Section 2.202.03, Joint Use.
- D. Required parking spaces shall be available for the parking of operable passenger vehicles of residents, customers, patrons and employees only, and shall not be used for storage of materials or inoperable vehicles, or for the parking of trucks used in conducting the business or use.

- E. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met, shall accompany an application for a building permit.

2.202.07 DESIGN REQUIREMENTS

All parking and loading areas, except those for single-family dwellings, shall be developed and maintained as follows:

- A. Surfacing: All driveways, parking, and loading areas shall have a durable, hard surface.
- B. Parking Spaces: Parking Spaces shall be a minimum of nine (9) feet wide and 18 feet in length.
- C. Driveways: The following driveway dimensions shall apply:

1.	<u>Without adjacent parking:</u>	<u>Driveway Width</u>
a.	One-way:	10 feet
b.	Two-way:	16 feet

- 2. With adjacent parking:

	<u>Parking Angle</u>	<u>Driveway Width</u>
	0° to 40°	12 feet
	41° to 45°	13 feet
	46° to 55°	15 feet
	56° to 70°	18 feet
	71° to 90°	24 feet

- D. Screening: When any public parking or loading area is within or adjacent to a residential zone, such parking or loading area shall be screened from all residential properties with an ornamental fence, wall, or hedge a minimum of 4 but not more than 6 feet in height, including along alleys.
- E. Lighting: Any light used to illuminate a parking or loading area shall be arranged to be directed entirely onto the loading or parking area, shall be deflected away from any residential use and shall not cast a glare or reflection onto moving vehicles on public rights-of-way.
- F. Areas used for parking and maneuvering of vehicles shall be drained as to avoid flow of water across sidewalks.

- G. Except for parking to serve residential uses, parking and loading areas adjacent to residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.
- H. Groups of more than four (4) parking spaces shall be located and served by a driveway so that their use requires no backing movements or other maneuvering within a street right-of-way other than an alley.
- I. Service drives to off-street parking area shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrians and vehicular traffic on the site.
- J. Service drive exits shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 15 feet from their intersection. No obstruction to vision, in excess of 30 inches in height, shall be permitted within such area.
- K. Parking spaces along the outer boundaries of a parking lot shall be contained by a curb or a bumper rail at least 4 inches high, located a minimum of 3 feet from the property line, to prevent a motor vehicle from extending over an adjacent property or street.
- L. Parking for the handicapped shall be provided in parking lots in accordance with the standards and requirements established in Chapter 31 of the most recent edition of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations. Parking spaces for the handicapped may be included in determining compliance with the total parking space requirements established by this Ordinance.

2.202.08 RESIDENTIAL DRIVEWAY STANDARDS

All residential driveways shall be constructed of a hard durable surface and shall be a minimum of ten feet in width. Residential driveways shall be constructed of similar materials as used in the accessing public street or roadway. Gravel driveways are permitted when the adjacent public street, which provides access, is also constructed of gravel.

2.203 ACCESSORY STRUCTURES

2.203.01 GENERALLY

Accessory structures shall comply with the following requirements.

2.203.02 RESIDENTIAL ZONE

- A. Location and Number. Accessory structures shall be located within the rear or interior side yard. A maximum of two (2) accessory structures are permitted.
- B. Height. The maximum allowable height is 20 feet, except that no accessory structure shall exceed the height of the primary building.
- C. Property Setbacks. For structures 10 feet or less in height there shall be a minimum five (5) foot setback along the side and rear property lines. For buildings greater than 10 feet in height there shall be a setback of five (5) feet along each side property line and 10 feet along the rear property line.
- D. Building Separation. Accessory structures shall be separated from the primary building by a minimum of six (6) feet.
- E. Building Size. In no case shall the accessory structure occupy more than 20 percent of the rear yard. The building size limitation shall be considered the maximum allowable area permitted for all accessory structures.
- F. Exterior Finish. The accessory structure shall have an exterior finish that is residential in character.
- G. A building permit is required for all accessory structures that exceed 200 square feet in size or 10 feet in height.

2.203.03 COMMERCIAL-RESIDENTIAL, COMMERCIAL-INDUSTRIAL, AND FORESTRY ZONES

- A. Location and Number. Accessory structures may be located anywhere the primary structure may be placed. There is no limit to the number of permitted accessory structures.
- B. Height. Accessory structures shall comply with the height provisions in the underlying zone for the primary structure.
- C. Setbacks. Accessory structures shall comply with the setback provisions in the underlying zone for the primary structure.

- D. Building size. There is no limitation, provided the building complies with the setback and height limitations of the underlying zone.
- E. A building permit is required for all accessory structures that exceed 200 square feet in size or 10 feet in height.

2.204 SIGNS

2.204.01 PURPOSE

The purpose of these sign regulations is to provide equitable signage rights, reduce signage conflicts, promote traffic and pedestrian safety, and increase the aesthetic value and economic viability of the City, all by classifying and regulating the location, size, type and number of signs and related matters, in a content-neutral manner.

2.204.02 DEFINITIONS

Definitions. See Signs, Section 1.200, General Definitions.

2.204.03 GENERAL PROVISIONS

- A. **Conflicting Standards:** Signs shall be allowed subject to the provisions of this subsection, except when these provisions conflict with the specific standards for signs in the subject district.
- B. **Signs Subject to State Approval:** All signs visible to the traveling public from State highways are subject to the regulations and permit requirements of the State of Oregon Highway Division of the Department of Transportation.
- C. **Uniform Sign Code:** All signs shall comply with the provisions of the Uniform Sign Code of the Uniform Building Code.
- D. **Sign Clearances:** A minimum of eight (8) feet above sidewalks and 15 feet above driveways shall be provided under free-standing or wall-mounted signs.

2.204.04 SIGNS GENERALLY PERMITTED.

The following signs and sign work are permitted in all zones. These signs shall not require a permit, and shall not be included when determining compliance with total allowed area:

- A. **Painting, change of sign face or copy and maintenance of signs** legally existing on the effective date of this Ordinance. If structural changes are made, or there is a change of use, the sign shall conform in all respects with these regulations.
- B. **Temporary signs** that do not exceed six (6) square feet in area. No lot may display temporary signs for more than 90 days in any 365-day period. Only one temporary sign per lot may be displayed at a time.
- C. **Real estate signs** not exceeding six (6) square feet, which advertise the sale, rental or lease of premises upon which the sign is located. Real estate signs may be used up to two (2) years without a permit.

- D. Signs posted by or under governmental authority including legal notices, traffic, danger, no trespassing, emergency and signs related to public services or safety.
- E. Incidental signs that do not exceed six (6) square feet.
- F. Flags or permanent flag poles which are designed to allow raising and lowering of the flags.
- G. Signs within a building.
- H. In a Commercial zone, signs painted or hung on the inside of windows.
- I. Residential or Home Occupation Name Plates: Shall not exceed two (2) square feet. Only one such sign shall be permitted upon the premises and may only be indirectly illuminated.

2.204.05 PROHIBITED SIGNS.

The following signs are prohibited:

- A. Balloons or similar types of tethered objects.
- B. Portable signs.
- C. Roof signs.
- D. Signs that emit odor, visible matter, or sound, however an intercom system for customers remaining in their vehicles, such as used in banks and “drive thru” restaurants, shall be allowed.
- E. Signs that use or employ side guy lines of any type.
- F. Signs that obstruct any fire escape, required exit, window or door opening used as a means of egress.
- G. Signs closer than 24 inches horizontally or vertically from any overhead power line or public utility guy wire.
- H. No vehicle or trailer shall be parked on a public right-of-way or public property, or on private property so as to be visible from a public right-of-way which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby premises. This provision applies where the primary purpose of a vehicle is for advertising purposes and is not intended to prohibit any form of vehicular sign, such as a sign attached to a motor vehicle which is primarily uses for business purposes, other than advertising.
- I. Rotating/revolving signs, except by conditional use permit.

- J. Flashing signs.
- K. Private signs that project into or over driveways and public right-of-ways, except signs under a canopy that projects over a public sidewalk and the sign is not less than 8 feet above the sidewalk.
- L. Signs that obstruct required vision clearance area or obstruct a vehicle driver's view of official traffic control signs and approaching or merging traffic, or which present a traffic hazard.
- M. Signs that interfere with, imitate, or resemble any official traffic control sign, signal or device, emergency lights, or appears to direct traffic, such as a beacon light.
- N. Signs attached to any pole, post, utility pole or placed on its own stake and placed into the ground in the public right-of-way.
- O. Message Signs, except by conditional use permit.
- P. Projecting Signs.
- Q. Any sign on unimproved property, unless allowed as a temporary sign.
- R. Any illegible sign or sign that has 25 percent or more of its surface destroyed, defaced, missing or inaccurately represents the name or nature of the current business(es) occupying the structure.

2.204.06 SIGNS IN NON-COMMERCIAL ZONES.

The following regulations apply to signs in the Residential and Forestry Zones:

- A. Maximum number. Any combination of wall, canopy or free-standing signs not exceeding the sign area and height limitations of this Section; plus signs allowed in Section 2.204.04.
- B. Maximum total sign area for property on which the building or buildings are located:
 - 1. Single-family and two-family (duplex) dwelling – six (6) square feet provided total sign area on a free-standing sign shall be limited to a maximum of 4 square feet.
 - 2. Multiple family dwelling - 24 square feet provided total sign area on a free-standing sign shall be limited to a maximum of 18 square feet.
 - 3. Public and semi-public - 32 square feet provided the total sign area on a free-standing sign shall be limited to a maximum of 24 square feet.
- C. Maximum sign height:

1. Wall, canopy or window sign: Four (4) feet.
 2. Free-standing sign: Six (6) feet.
- D. Location:
1. Wall, canopy or window sign: shall be set back from the property lines of the lot on which it is located, the same distance as the building containing the permitted use.
 2. Free-standing sign: where fences are allowed.
- E. Illumination. Signs may only be indirectly illuminated by a concealed light source, shall not remain illuminated between the hours of 11:00 p.m. and 6:00 a.m., and shall not flash, blink, fluctuate or produce glare.

2.204.07 SIGNS IN COMMERCIAL- RESIDENTIAL (CR) AND COMMERCIAL-INDUSTRIAL (CI) ZONES

The following regulations apply to signs in the CR and CI Zones.

- A. Total allowed area. Total allowed area of 40 square feet per sign, except monument signs, which may be 60 square feet per sign.
- B. Type, maximum number and size of signs. One (1) free-standing sign per street frontage, and a total of no more than two (2) wall or canopy signs.
- C. Maximum sign height:
 1. Wall and canopy signs shall not project above the parapet or roof eaves.
 2. Free-standing signs: maximum total height of 10 feet.
- D. Location:
 1. Wall signs: may project up to 1.5 feet from the building.
 2. Free-standing signs and monument signs - no limitation except they shall not project over street right-of-way and shall comply with requirements for vision clearance areas and special street setbacks.
- E. Appearance and Construction
 1. Signs must be built of such materials as to be consistent with the age, appearance and purpose of the building(s) adjacent to it.

2. The design and appearance of all signs must reflect and be consistent with the appearance, design, architecture and historical character of adjacent buildings and uses.

2.204.08 REVIEW PROCEDURES

- A. Permit Required. No property owner, lessee or contractor shall construct or alter any sign without first obtaining a valid sign permit.
- B. Current Signs. Owners of conforming or nonconforming signs existing as of the date of adoption of this Ordinance are not required to obtain a permit.
- C. Permit fees. Permit fees shall be established from time to time by City Council resolution.
- D. Application Requirements. An application for a sign permit shall be made on a form prescribed by the Recorder. The application shall include, at a minimum, a sketch drawn to scale indicating the proposed sign and identifying existing signs on the premises, the sign's location, graphic design, structural and mechanical design and engineering data which ensures its structural stability. The application shall also contain the names and address of the sign company, person authorizing erection of the sign and the owner of the subject property.

The Recorder shall issue a permit for a sign unless the sign is in violation of the provisions of these regulations or other provisions of this Code. Sign permits mistakenly issued in violation of these regulations or other provisions of this Ordinance are void. The City Administrator Recorder may revoke a sign permit if he or she finds that there was a material and misleading false statement of fact in the application for the permit.

- E. Design, Construction, and Maintenance. All signs shall be designed, constructed, and maintained according to the following standards:
 1. All signs shall comply with the applicable provisions of the Uniform Building Code in effect at the time of the sign permit application and all other applicable structural, electrical and other regulations. The issuance of a sign permit under these regulations does not relieve the applicant of complying with all other permit requirements.
 2. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of these regulations, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame, or structure.
 3. All signs shall be maintained in a good structural condition and readable at all times.

4. The owner shall be responsible for its erection and maintenance and its compliance with the provisions of these regulations or other laws or Ordinances regulating signs.

2.204.09 NONCONFORMING SIGNS

- A. **Alteration of Nonconforming Sign Faces.** When a nonconforming sign face is damaged or destroyed by fire, flood, wind, or other calamity, such sign face may be restored to its original condition provided such work is completed within 30 days of such calamity. A sign structure or support mechanisms so damaged shall not be replaced except in conformance with the provisions of these regulations.
- B. **Abandoned Signs.** All signs for a business shall be removed within 30 days after that business ceases to operate on a regular basis, and the entire sign structure or structures shall be removed within 6 months of such cessation or operation unless the sign possesses and has been acknowledged for its historical significance pursuant to Section 2.210 of this Ordinance. Illegal and abandoned signs, which are not removed or are erected in violation of this Ordinance may be removed by the City of Falls City following notice to the property owner. The property owner will be assessed the cost of sign removal if the owner fails to remove the nonconforming, illegal or abandoned sign and the City exercises its authority under this provision.

2.204.10 VARIANCES – SIGNS

Any allowance for signs not complying with the standards set forth in these regulations shall be by variance. Variances to Section 2.204 will be processed according to the procedures in Section 3.203 (Site Design Review). The criteria in Section 3.203 shall not be used. Instead, the following criteria shall be used to review and decide sign variance applications.

- A. There are unique circumstances of conditions of the lot, building or traffic pattern such that the existing sign regulations create an undue hardship;
- B. The requested variance is consistent with the purpose of the chapter as stated in Section 2.204.01, and
- C. The granting of the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to any other business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this chapter.
- D. The granting of the variance shall not decrease traffic safety nor detrimentally affect any other identified items of public welfare.
- E. The variance will not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a variance.

F. The variance request shall not be the result of a self-imposed condition or hardship.

2.205 STANDARDS FOR AREAS WITH BULDING LIMITATIONS

2.205.01 PURPOSE

The purpose of this Section is to

- A. Promote the public health, safety and general welfare;
- B. Minimize public and private losses due to natural hazards resulting from geologic, soils, topographic and/or flood conditions;
- C. To minimize expenditure of public money and costly flood control projects;
- D. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- E. To minimize prolonged business interruptions;
- F. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- G. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas; and
- H. To ensure that potential buyers are notified that property is in an area of special flood hazard.

2.205.02 DEFINITIONS

Unless specifically defined below, words or phrases in this section shall be interpreted to give them the same meaning as they have in common usage and to give this classification its most reasonable application. Where conflicts exist between definitions listed below and the General Definitions provided in Section 1.200 of this Ordinance, the definitions of this subsection shall be used in lieu of the General Definition with respect to the provisions of this subsection.

Appeal: A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of Special Flood Hazard: The land in the flood plain within a community subject to a one (1) percent or greater chance of flooding in any given year. Designation on flood rate insurance maps always includes the letters A or V.

Base flood: The flood having a (one) 1 percent chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood ~~plain~~. Designation on flood insurance rate maps always includes the letters A or V.

Basement: The area of the building having its floor subgrade (below ground level) on all sides.

Conveyance: Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (cfs). If the flow is 30,000 cfs at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage equipment or materials located within the area of special flood hazard.

Exception: A grant of relief from the requirements of this subsection which permits construction in a manner that would otherwise be prohibited by the provisions of this subsection.

Fill: Any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a wetland or floodplain for the purposes of development or redevelopment.

Flood or Flooding: A general and temporary condition of partial or complete inundation of usually dry land areas from:

1. The overflow of inland or tidal waters and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Falls City.

Flood Insurance Study (FIS): The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Flood Plain: Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Falls City. It is usually the flat area of land adjacent to a stream or river formed by previous floods.

Floodproofing: A combination of structural or non-structural provisions, changes, or adjustment to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

Floodway: The channel of a river or other watercourse and the adjacent land areas reserved to discharge the 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood more than one foot.

Floodway Fringe: The area of the flood plain lying outside of the floodway as delineated on the Flood Insurance Rate_Map where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

New construction: Any structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

Obstruction: A physical object which hinders the passage of water.

Recreational Vehicle: A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Severe Development Limitation Soils: Those soils in Falls City rated by the Soil Survey of Polk County as having severe development limitations. These severe limitations are due to low soil strength, relatively steep slope, shrink-swell characteristics, flood hazards, seasonal high water table, high landslide potential, and shallow depth to bedrock.

Start of construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: A walled and roofed building including a gas or liquid storage tank that is principally above ground.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures.

The term does not include:

3. Any project for improvements of a structure to comply with existing State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
4. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

Utility Facilities: Buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater pre-treatment facilities.

2.205.03 AREA OF APPLICATION:

The standards in this section apply to new development in those areas within the city limits of Falls City which are identified on the Building Limitations Map in the Falls City Comprehensive Plan, which is included as Exhibit A of this section.

These areas include the following:

- A. Areas identified on the Building Limitations Map in the Comprehensive Plan as having:
 1. Soils identified by the Natural Resources Service as having "Severe" building site development due to: Steep slopes; landslide hazard; poor drainage; erosion hazard; low stability; high water table; and/or high shrink-swell potential.
 2. Slopes equal to or in excess of 25 percent grade.

- 3. Proximity to perennial or intermittent streams draining 50 or more acres.
- B. "Areas of Special Flood Hazards", as defined herein.

2.205.04 ADMINISTRATION

The City Recorder or Recorder's designee is hereby appointed to administer and implement this section. Duties of the City Recorder or Recorder's designee shall include, but not be limited to:

- A. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- B. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- C. Review all development proposals to determine if the proposed development is located in an area of special flood hazard. If located in the floodway, assure that the encroachment provisions of Section 2.205.06(I) are met.
- D. Review all development proposals to determine if the proposed development is located in an area of those soils rated with severe development limitations in the Soil Survey of Polk County, and/or slopes greater than or equal to 25 percent on any soil type.

2.205.05 STANDARDS FOR SEVERE DEVELOPMENT LIMITATIONS AREA

- A. The purpose of this section is to protect life and property from geologic, topographic, and soils hazards.
- B. The Severe Development Limitations Area is comprised of those soils rated with severe development limitations in the Soil Survey of Polk County, and/or slopes greater than or equal to 25 percent on any soil type.
- C. No development, including utility facilities and stormwater pre-treatment facilities, shall occur within the Severe Development Limitation Area identified in Subsections 2.205.05(A) and (B), above, except in accordance with the provisions of this subsection.
- D. Site Design Review, pursuant to the provisions of Section 3.203, shall be required for all new development proposals within the Severe Development Limitation Area. In the event of utility facilities, storm water pre-treatment facilities, subdivision or Planned Unit Development proposals within the Severe Development Limitation Area, Site Design Review for compliance with this subsection shall be combined with the review process for the subdivision or Planned Unit Development. No separate Site Design Review application or base fee shall be required for such combined reviews.

- E. In addition to the submittal requirements of Site Design Review, the applicant shall submit a report prepared by a registered professional soils engineer or engineering geologist. This report shall describe:
1. The nature, distribution and strength of soils, slopes greater than or equal to 25 percent, and springs within the subject area.
 2. Findings regarding the adequacy of the soils to support the intended types of structures or uses and an assessment of mass wasting hazards due to springs.
 3. Findings that the construction of the structures, utility facilities, including but not limited to stormwater detention and retention structures, and planned uses will not destabilize conditions elsewhere in the City.
 4. Recommendations, if necessary, of construction measures required to adequately mitigate the potential soil, slope hazard, or mass wasting hazards due to springs on- and off-site.
 5. If necessary, a grading plan and erosion control measures adequate to minimize on-site and off-site impacts as described in Section 2.206.
- F. If the Planning Commission determines that the geology report adequately addresses concerns for public safety from the applicable slope, soil, or spring hazard, and that other applicable provisions of this Ordinance are satisfied, the application shall be approved. The Planning Commission may attach such conditions to the approval as are necessary to assure the public safety with respect to the hazard.

2.205.06 STANDARDS FOR SPECIAL FLOOD HAZARD AREA

- A. Findings of Fact
1. The flood hazard areas of Falls City are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.
- B. The purpose of this section is to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
2. Minimize expenditure of public money for flood control projects, and rescue and relief efforts in areas subject to flooding.
3. Minimize flood damage to new construction by elevating or floodproofing all structures.
4. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.
5. Control filling, grading, dredging and other development which may be subject to or increase flood damage.
6. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.
7. Comply with the requirements of the Federal Insurance Administration to qualify the City of Falls City for participation in the National Flood Insurance Program.
8. Minimize flood insurance premiums paid by the citizens of the City of Falls City by reducing potential hazards due to flood damage.
9. Implement the flood plain policies in the City of Falls City Comprehensive Plan.
10. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of specific flood hazard;
11. Help maintain a stable tax base by providing for the sound use and development of areas of flood hazard so as to minimize future flood blight areas;
12. Ensure that potential buyers are notified that property is in an area of special flood hazard;
13. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
14. Implement the policies of the Comprehensive Plan regarding development in flood hazard areas.

C. Methods of Reducing Flood Losses

In order to accomplish its purposes, this subsection of this Ordinance includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

D. General Provisions:

1. Basis for Establishing the Areas of Special Flood Hazard:

The areas of Special Flood Hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Polk County, Oregon and Incorporated Areas," dated December 19, 2006, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Rate Map is on file at City Hall, Falls City, Oregon. The best available information for flood hazard area identification as outlined in Section 2.205.06(E)(4) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under Section 2.205.06(E)(4).

2. Penalties for Noncompliance:

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this subsection and other applicable regulations. Violation of the provisions of this subsection by failure to comply with any of its requirements (including violation of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor and shall be subject to the fines and penalties set forth in Section 1.103.

3. Annulment and Greater Restrictions. This subsection is not intended to repeal, annul or impair any existing easements, covenants or deed restrictions. However, where conflicts exist between a provision of this subsection and another section of this Ordinance, another ordinance, easement, covenant or deed restriction, whichever imposes the most stringent restrictions shall prevail.

4. Interpretation. In the interpretation and application of this Section, all provisions shall be:
 - a. Considered as minimum requirements;
 - b. Liberally construed in favor of the governing body; and,
 - c. Deemed neither to limit nor repeal any other powers granted under State statutes.

5. Warning and Disclaimer of Liability:

The degree of flood protection required by this overlay zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by artificial or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Falls City, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this subsection or any administrative decision lawfully made thereunder.

E. Flood plain Development Permit

1. Flood plain Development Permit Required. A Development Permit shall be obtained before construction or development begins within any area of Special Flood Hazard established in Subsection 2.205.06(D)(1). The permit shall be for all structures, including manufactured homes, as set forth in the "Definitions", and for all development including fill and other activities, also set forth in the "Definitions" section.

2. Application for Flood plain Development Permit. Application for a Development Permit shall be made and reviewed in accordance with the procedures set forth in Type I-B procedures of Section 3.104. Application for a Development Permit shall be made on forms furnished by the City and shall include the following minimum information:
 - a. Scaled plans showing the nature, location, dimensions and elevations of the area in question;
 - b. Location of existing structures, fill, storage areas, and drainage facilities;
 - c. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - d. Elevation, in relation to mean sea level, to which any structure has been floodproofed;

- e. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 2.205.06(G)(2);
 - f. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
 - g. A topographic map of the site at contour intervals of two (2) feet or less showing a delineation of the Special Flood Hazards Area;
 - h. An inventory and location of existing debris and noxious materials.
3. Permit Review: Review of Flood Plain Development Permit applications shall be by the Planning Commission. Flood Plain Development Permit applications are Type I-B actions and shall be reviewed against the following criteria:
- a. Review to ensure that the permit requirements of this subsection have been satisfied;
 - b. Review to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required; and
 - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, review shall assure that the encroachment provisions of subsection 2.205.06(I)(1) are met.

4. Use of Other Base Flood Data:

When base flood elevation data and floodway data have not been provided in accordance with subsection 2.205.06(D)(1), the applicant, with the assistance of the City Recorder, or designee, shall obtain, review, and reasonably utilize any base flood elevation, floodway data, or evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards. If data is insufficient, the City Recorder, or designee, may require that the applicant provide data derived by standard engineering methods.

5. Information to be Obtained and Maintained:

The City Recorder shall obtain from the applicant and maintain the following information:

- a. Where base flood elevation data is provided through the Flood Insurance Study and Flood Insurance Rate Map or required as in Subsection 2.205.06(E)(4), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

- b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 2.205.06(E)(4):
 - i. verify and record the actual elevation to which the structure was flood-proofed (in relation to mean sea level), and
 - ii. maintain the floodproofing certifications required in Subsection 2.205.06(E)(2)(e).
- c. Maintain for public inspection all records pertaining to the provisions of this Ordinance.

Prior to occupancy the applicant shall provide a FEMA elevation certificate signed by a licensed surveyor or civil engineer certifying that the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved manufactured homes and structures meets the requirements of Subsection 2.205.06(G).

6. Alteration of Watercourses

- a. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

7. Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 2.205.06(E)(8).

8. Exception Procedure:

- a. The Planning Commission shall hear and decide requests for exceptions to the requirements of this subsection. Requests for such exceptions shall be included in the application information submitted with the request for the Flood Plain Development Permit.
- b. In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:

- i. the danger that materials may be swept onto other lands to the injury of others;
 - ii. the danger to life and property due to flooding or erosion damage;
 - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. the importance of the services provided by the proposed facility to the community;
 - v. the necessity to the facility of a waterfront location, where applicable;
 - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. the compatibility of the proposed use with existing and anticipated development;
 - viii. the relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;
 - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- c. Upon consideration of the factors of Subsection 2.205.06(E)(6)(b) and the purposes of this subsection, the Planning Commission may attach such conditions to the granting of exceptions as it deems necessary to further the purposes of this subsection.

9. Conditions for Exceptions:

- a. Generally, the only condition under which an exception from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Subsection

2.205.06(E)(8) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

- b. Exceptions may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this subsection.
- c. Exceptions shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Exceptions shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.
- e. Exceptions shall only be issued upon:
 - i. a showing of good and sufficient cause;
 - ii. a determination that failure to grant the exception would result in exceptional hardship to the applicant;
 - iii. a determination that the granting of a exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- f. Exceptions, as interpreted in the National Flood Insurance Program, are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, exceptions from the flood elevations should be quite rare.
- g. Exceptions may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other exception criteria except for Subsection 2.205.06(E)(9)(a), and otherwise complies with subsections 2.205.06(F)(1) and 2.205.06(F)(2) of the General Standards.
- h. Any applicant to whom an exception is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- i. The City shall maintain the records of all exception actions and shall report any such exceptions to the Federal Insurance Administration upon request.
- j. Exceptions may not be issued to increase the maximum allowed size of residential accessory structures within areas of special flood hazards.

10. Appeals of Planning Commission Actions

Planning Commission actions on Flood Plain Development Permits, and/or exceptions pursuant to 2.205.06(E)(8) and (9) above, may be appealed to the City Council in accordance with the appeal procedures set Section 3.104 of this ordinance.

F. General Provisions for Flood Hazard Reduction:

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

1. Anchoring:

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

2. Construction Materials and Methods:

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

3. Utilities:

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals:

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five (5) acres (whichever is less).

5. Review of Building Permits

Where elevation data is not available, either through a Flood Insurance Study or from another authoritative source (Subsection 2.205.06(E)(4)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes the use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.

G. Specific Standards for Flood Hazard Reduction:

1. Residential construction.

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above base flood elevation.
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a

registered professional engineer or architect or must meet or exceed the following minimum criteria:

- i. A minimum of 2 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- c. Crawlspace Construction. Below-grade crawlspaces are allowed subject to the following standards as found in Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:
- i. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section 2.205.06(G)(1)(c)(ii). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
 - ii. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
 - iii. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
 - iv. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter

or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

- v. The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
 - vi. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
 - vii. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
 - viii. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
- d. Residential Accessory Structures. No single residential accessory structure located within areas of special flood hazard shall exceed 500 square feet in size. The size of residential accessory structures located within areas of special flood hazard is a non-variable standard.

2. Nonresidential construction.

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

- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted

standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans.

- d. Nonresidential structures that are elevated but not floodproofed must meet the same standards for space below the lowest floor as described in Subsection 2.205.06(G)(1)(b).
- e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
- f. Below-grade crawlspaces are allowed subject to the standards found in Section 2.205.06(G)(1)(c).

3. Manufactured Homes.

All manufactured homes to be placed or substantially improved within Zones ~~A1-30~~, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection 2.205.06(F)(1)(b).

4. Recreational Vehicles

Recreational vehicles placed on sites within Zones AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days,
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- c. Meet the requirements of Subsection 2.205.06(G)(3) and the elevation and anchoring requirements for manufactured homes.

H. Before Regulatory Floodway.

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the city's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

I. Floodways.

Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential; the following provisions shall apply:

1. Encroachments, including fill, new construction, substantial improvements and other development, shall be prohibited unless certification by a registered engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Subsection 2.205.06(I)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsections 2.205.06(F), and (G).

J. Uses Permitted

If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit may be allowed subject to approval of a Flood Plain Development Permit provided the following requirements are met:

1. The structure is not located within a floodway.
2. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.
3. The structures will be located on natural grade or compacted fill.
4. The lowest floor will be elevated to one foot above the level of the base flood elevation and the anchoring requirements in Subsection 2.205.06(F)(1).
5. The Building Official has determined that any construction and substantial improvements meet the requirements of Section 2.205.06.
6. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Subsection 2.205.06(E)(5).
7. A FEMA elevation certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the City Recorder prior to use of the structure.
8. No alteration of topography beyond the perimeter of the structure is proposed.

2.205.07 STEEP SLOPES

- A. Areas identified on the Building Limitations Map in the Comprehensive Plan as having:
 - 1. Soils identified by the Natural Resources Service as having "Severe" building site development due to: Steep slopes; landslide hazard; poor drainage;
 - 2. Slopes equal to or in excess of 25 percent grade.

- B. In addition to the submittal requirements of Site Design Review, the applicant shall submit a report prepared by a registered professional soils engineer or engineering geologist. This report shall describe:
 - 1. The nature, distribution and strength of soils, slopes greater than or equal to 25 percent, and springs within the subject area.
 - 2. Findings regarding the adequacy of the soils to support the intended types of structures or uses and an assessment of mass wasting hazards due to springs.
 - 3. Findings that the construction of the structures, utility facilities, including but not limited to stormwater detention and retention structures, and planned uses will not destabilize conditions elsewhere in the City.
 - 4. Recommendations, if necessary, of construction measures required to adequately mitigate the potential soil, slope hazard, or mass wasting hazards due to springs on- and off-site.
 - 5. If necessary, a grading plan and erosion control measures adequate to minimize on-site and off-site impacts as described in Section 2.206.

- C. If the Planning Commission determines that the geology report adequately addresses concerns for public safety from the applicable slope, soil, or spring hazard, and that other applicable provisions of this Ordinance are satisfied, the application shall be approved. The Planning Commission may attach such conditions to the approval as are necessary to assure the public safety with respect to the hazard.

2.206 STORM DRAINAGE

2.206.01 PURPOSE

To provide for the drainage of surface water from all residential, commercial and industrial development; to minimize erosion; to reduce degradation of water quality due to sediments and pollutants in storm water runoff.

2.206.02 Scope

- A. The provisions of this Section shall apply to all new residential land partitions and subdivisions, planned unit developments, multi-family developments, commercial developments, and industrial development; and to the reconstruction or expansion of such developments.
- B. The provisions of this Section shall apply to all drainage facilities that impact any public storm drain system, public right-of-way or easement dedicated to or located within all off-street parking and loading areas.
- C. All storm water runoff shall be conveyed to a public storm sewer or natural drainage channel having adequate capacity to carry the flow without overflowing or otherwise causing damage to public and/or private property. In the case of private development, the developer shall pay all costs associated with designing and constructing the facilities necessary to meet this requirement.

2.206.03 GENERAL STANDARDS FOR RUNOFF, SEDIMENTATION, AND EROSION CONTROL

A property owner shall not modify or grade his property so as to direct runoff onto an adjacent property, other than that which is naturally occurring. Roof drainage shall be directed to the curb line of the adjacent street or to a storm sewer facility, wherever possible. Development plans submitted to the Building Inspector shall assure that proper site grading measures are taken whenever necessary to avoid excessive runoff or erosion.

2.206.04 PLAN FOR STORM DRAINAGE AND EROSION CONTROL

- A. No construction of any facilities in a development included in Subsection 2.204.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by an engineer registered in the State of Oregon and approved by the City. This plan shall contain at a minimum:
 - 1. The methods to be used to minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.
 - 2. Plans for the construction of storm sewers, open drainage channels, and other facilities that depict line sizes, profiles, construction specifications, and other such

information as is necessary for the City to review the adequacy of the storm drainage plans.

3. Design calculations shall be submitted for all drainage facilities. These drainage calculations shall be included on the site plan drawings and shall be stamped by a licensed professional engineer in the State of Oregon. Peak design discharges shall be computed using the rational formula and based upon the design criteria outlined in the Standard Specifications for Public Works Construction in the City of Falls City and the most current adopted Storm Drainage Master Plan.

2.206.05 GENERAL STANDARDS

- A. All development shall be planned, designed, constructed and maintained to:
 1. Protect and preserve existing natural drainage channels to the maximum practicable extent;
 2. Protect development from flood hazards;
 3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;
 4. Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeded, phasing or grading;
 5. Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;
 6. Provide dry wells; french drains, or similar methods, as necessary to supplement storm drainage systems;
 - 7.. Avoid placement of surface detention or retention facilities in road rights-of-way.
- B. Where culverts cannot provide sufficient capacity without significant environmental degradation, the City may require the watercourse to be bridged or spanned.
- C. In the event a development or any part thereof is traversed by any watercourse, channel, stream or creek, gulch, or other natural drainage channel, adequate easements for storm drainage purposes shall be provided to the City. This does not imply maintenance by the City.

- D. Channel obstructions are not allowed except as approved for the creation of detention or retention facilities approved under the provisions of this Ordinance. Fences with swing gates may be utilized.
- E. Prior to acceptance of a storm sewer system by the City, the storm sewers shall be flushed and inspected by the City. All costs shall be borne by the developer.
- F. Easements for creeks and other watercourses shall be provided and shall extend 15 feet in each direction from the waterway centerline, ten feet from the top of a recognizable bank, or sufficient width to pass 10-year flood flows or 100 year floodway on FEMA regulated stream, whichever is greater. The easements required by this section shall be held to prohibit the placement of any building on or over the easement, but shall not preclude landscaping, and shall be held to require restoration of the site following any excavation or other disturbance permitted by the easement.

2.207 DEVELOPMENT STANDARDS FOR PARTITIONS AND SUBDIVISIONS

2.207.01 STREETS

- A. General Design Requirements: The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. The arrangement of streets in a subdivision or major partition shall either:
 - 1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - 2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical or undesirable.

- B. Minimum Right-of-Way and Pavement Widths: The width of rights-of-way and pavement for proposed streets shall conform to the following minimum standards:

<u>TYPE OF STREET</u>	<u>MINIMUM RIGHT-OF-WAY</u>	<u>MINIMUM PAVEMENT</u>
Major Arterials	60	40
Collector Streets	60	40
Minor Streets	50	32
Cul-de-Sacs (greater than 200 feet in length)	50	30
Cul-de-Sacs (less than 200 feet in length)	45	30
Radius for cul-de-sac turnaround	45	40

- 1. Right-of-way widths shown are exclusive of side slope easements, which may be required in addition for cuts or fills in steep terrain.
- 2. Exact width standards will be defined in improvement specifications adopted by the City.
- 3. The minimum roadway width may be modified by the action of the Planning Commission, taking into consideration the unique characteristics of the land, to include geography, topography, and its relation to land developments already present in the area.

- C. Reserve strips: Reserve strips, or street plugs, controlling access to streets will not be approved unless accessory for the protection of the public welfare or of substantial property rights, and, in these cases, they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the Planning Commission under conditions approved by them.
- D. Alignment: So far as practical, streets, other than minor streets, shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and-otherwise shall not be less than 125 feet.
- E. Future Extension of Streets: Where necessary to give access to, or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision; and the resulting dead-end streets may be approved without a permanent turn-around. Reserve strips and street plugs may be required to preserve the objectives of street extensions.
- F. Intersection Angles: Streets shall be laid out to intersect at angles as near to right angles as practical. Where topography requires, a lesser angle may be approved but in no case shall the acute angle be less than 60 degrees unless there is a special intersection design. The intersection of an arterial or collector street with another street shall have at least 100 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections, which include an arterial street, shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line.
- G. Existing Streets: Whenever existing streets adjacent to, or within, a tract are of inadequate width, additional right-of-way and paving shall be provided, to meet the standards of this Section, at the time of subdivision.
- H. Half-Streets: Half-streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of this Ordinance, and when the Planning Commission finds it will be practical to require the dedication of the other half of the street when the adjoining property is subdivided. Whenever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half-streets.
- I. Cul-de-sacs: A cul-de-sac shall be as short as possible, and shall have a maximum length of 800 feet. A cul-de-sac shall terminate with a turn-around, as required by this Section.
- J. Grades and Curves: Grades shall not exceed six (6) percent on arterials, 10 percent on collector streets, or 12 percent on any other street, unless topography mandates a steeper

grade. In no instance shall the grade of any street exceed 15 percent. Centerline radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept sharper curves.

- K. **Streets Adjacent to Railroad Right-of-Way:** Wherever the proposed subdivision contains, or is adjacent to, a railroad right-of-way, provision may be required for a street approximately parallel to, and on each side of, such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation, and to provide sufficient depth to allow screen planting along the railroad right-of-way.
- L. **Frontage Roads/Streets:** Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require frontage streets, reverse frontage lots with suitable depth, screen plantings contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- M. **Alleys:** Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission.

2.207.02 BLOCKS

- A. **General:** The length, width, and shape of blocks shall take into account the need for adequate lot size and street width, and shall recognize the limitations of the topography.
- B. **Size:** No block shall be more than 1,000 feet in length between corner lot lines unless it is adjacent to an arterial street, or unless the topography or the adjoining streets justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet.

2.207.03 EASEMENTS

- A. **Utility Lines:** Easements for the City's wastewater system lines, water mains, electric lines or other public utilities shall be dedicated whenever necessary. The easements shall be at least 10 feet wide and shall be centered on lot lines, whenever possible. Utility pole tieback easements may be reduced to six (6) feet in width.
- B. **Water Courses:** If a subdivision is traversed by water courses such as a drainageway, channel, or stream, there shall be provided a storm sewer easement or drainage easement conforming, substantially, with the lines of the water course, and adequate for the purpose, unless the water course is diverted, channeled or piped in accordance with plans approved by the City Engineer. Parkways parallel to major watercourses may be required.

- C. Pedestrian Ways: When desirable for public convenience or safety, pedestrian ways, not less than 10 feet in width may be required to connect to cul-de-sacs or to pass through unusually long or oddly shaped blocks.
- D. Easements of Way: An easement of way providing access to property, and which is created to allow the partitioning of land, may be approved by the Planning Commission subject to the following conditions:
 - 1. The proposed easement is the only reasonable method by which the rear portion of an unusually deep parcel, or an unusually configured parcel, which is large enough to be divided into two or three lots, may be provided access.
 - 2. An easement of way shall have a minimum width of 25 feet and shall be improved with an asphalt or concrete surface a minimum of 12 feet in width, if used to access one lot, or a minimum of 20 feet in width if used to access two lots.
 - 3. An easement of way shall not provide access to more than two (2) parcels.
 - 4. The Planning Commission shall require the applicant to provide for the maintenance of said access; and to file an easement for said access, which includes the right to passage, and for the installation of utility lines. Such requirements shall be submitted to and approved by the City Attorney.

2.207.04 LOTS

- A. Size and Shape: Lot size, width, shape and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. All lots in a subdivision shall be buildable. Lot dimensions shall conform to the zoning requirements of the area. The depth of lots shall not ordinarily exceed two and one half times the average lot width.
- B. Access: Each lot shall abut upon a street other than an alley for a width of at least 25 feet, except those lots approved and created by authority of the Planning Commission subject to Subsection 2.207.03 (D).
- C. Through Lots: Through lots shall be avoided except where they are essential to provide, separation of residential development from major traffic arterials or adjacent nonresidential development, or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 feet wide, and across which there shall be no right of access, may be required along the line of lots abutting such a traffic arterial or other incompatible use.
- D. Lot Side Lines: The side lot lines of lots, so far as practical, shall run at right angles to the street upon which the lots face.

2.207.05 LOT GRADING

Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

- A. Cut slopes shall not exceed 1½ feet horizontally to one foot vertically.
- B. Fill slopes shall not exceed two (2) feet horizontally to one foot vertically.
- C. The character of soil for fill and the character of lots made useable by fill shall be suitable for the purpose intended.
- D. The minimum elevation at which a structure may be erected, taking into consideration the topography of the lot, the surrounding area, drainage patterns, and other pertinent data, shall be established by the Building Inspector.
- E. The City Engineer shall determine whether a storm drainage system is necessary to control, manage and dispose of water lying on or running over a subdivision. In addition, the subdivider shall be required to meet other standards and conditions imposed by State laws and City ordinances.

2.207.06 BUILDING LINES

If special building setback lines are to be established in the subdivision, they shall be shown on the subdivision plat or included in the deed restrictions.

2.207.07 LARGE LOT SUBDIVISION

In subdividing tracts into large lots which at some future time are likely to be re-subdivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into lots, and contain such building site restrictions, as will provide for the future re-subdivision of the property.

2.207.08 LEFTOVER LAND

Islands, strips, or parcels of property unsuited for subdividing and not accepted by the City for appropriate use, shall not be left undivided, but shall be identified as required in this Section.

2.207.09 OPEN SPACE

Subdivisions and partitions of land, which include lands identified on the Significant Resources Map of the Comprehensive Plan as Open Space Resources shall provide for the preservation of the identified resource area through one of the following methods:

- A. **Public Dedication:** Open space resources which are determined by the Planning Commission to be suitably located to serve as public park lands may be dedicated to the City for such use.

- B. Common Area Dedication: Open space resources may be included in a tract of land to be owned in common by the owners of lots within the development. A nonprofit homeowners association shall be created, in a manner acceptable to the City Attorney, for the ownership and maintenance of such tracts. The tract shall be preserved in perpetuity as open space using conservation easements, deed restrictions, or by appropriate notation on the final plat.
- C. Conservation Easements: If identified open space resources are to be included in lot areas, conservation easements shall be required to prohibit development within the open space area and to protect existing scenic vegetation and/or natural features.

2.207.10 PARKS & RECREATION FACILITIES FOR RESIDENTIAL SUBDIVISIONS

- A. Areas Required: Except as modified in 2.207.10(B) below, an area of land, the size of which shall be determined by the Planning Commission, but not to exceed one acre for each 100 persons, or an area equal to a fractional proportion of 100 persons to one acre, shall be set aside and dedicated by the subdivider to the public for parks and recreation purposes. The potential population shall be computed at the rate of 3.25 persons for each potential unit in a single-family or two-family dwelling, and 2.75 persons for 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 recreation use and in compliance with the Comprehensive Plan.
- B. 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, then the subdivider shall, in lieu of setting aside land, pay into a park trust a sum of money equal to the market value of the land that would have been required in 2.207.10(A), above.
 - 1. 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 60 days of the submission of the tentative plan, shall be used for the purposes of fixing the value (except that appraised value shall always be determined subsequent to the parcel's annexation to the City). The City shall be responsible for securing the services of the professional appraiser and submitting those appraisal figures for the Planning Commission's consideration.
 - 2. The sum of money established by this procedure shall be paid to the City prior to the signing of the final plat by the Planning Commission chairman.
- C. Expenditure of Funds: Funds contributed in lieu of park land 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 park lands. 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.

2.208 IMPROVEMENTS

2.208.01 IMPROVEMENT PROCEDURES

In addition to other requirements, improvements shall conform to the requirements of this Ordinance and improvement standards or specifications adopted by the City, and shall be installed in accordance with the following procedures:

- A. Physical development of the property shall not be commenced until plans have been reviewed for adequacy and approved by the City to the extent necessary for evaluation of the subdivision proposal, the plans may be required before approval of the final plat. All plans shall be prepared in accordance with requirements of the City and conform with the Falls City Public Works Design Standards, as adopted by the City.
- B. All development on the property shall not commence until the City has been notified in advance; and development has been discontinued for any reason, it shall not be resumed until the City has been notified.
- C. Required improvements shall be inspected by, and constructed to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such change in the public interest.
- D. Underground utilities, sanitary sewers and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections shall be placed to lengths that will avoid the need to disturb street improvements when service connections are made.
- E. A map showing public improvements, as built, shall be filed with the City Engineer upon completion of the improvements.

2.208.02 IMPROVEMENTS IN SUBDIVISIONS

All street improvements, including pavement, curbs, gutters, sidewalks, and other public facility and service systems shall conform to the ordinances of the City of Falls City and conform with the Falls City Public Works Design Standards, as adopted by the City.

Subdivision plans shall not have final approval until such time as the Planning Commission in its judgment is satisfied that the following improvements will be completed in accord with applicable ordinances and standard specifications for public works. The following improvements shall be installed at the expense of the subdivider at the time of subdivision:

- A. Streets. Public streets, including alleys, within the subdivision and public streets adjacent but only partially within the subdivision shall be improved. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement, monuments shall be reestablished and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their center lines.

- B. Surface drainage and storm sewer system. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage ways or storm sewers outside the subdivision. Design of drainage within the subdivision, as provided by the City engineer, shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.
- C. Sanitary sewers. Sanitary sewers shall be installed to serve the subdivision and to connect the subdivision to existing mains.

If required sewer facilities will without further construction directly serve property outside the subdivision, the following arrangements will be made to equitably distribute the cost:

1. If the area outside the subdivision to be directly served by the sewer line has reached a state of development to justify sewer installation at the time, the Planning Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is desirable to assure financing their share of the construction.
 2. If the installation is not made as an assessment project, the City will reimburse the subdivider an amount estimated to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the subdivision for a period of 10 years from the time of installation of the sewers. The actual amount shall be as determined by the Commission at the time of approval of the plat, considering current construction costs.
- D. Water System. Waterlines and fire hydrants serving each building site in the subdivision and connecting the subdivision to City main shall be installed. The City Engineer's design shall take into account provisions for extension beyond the subdivision and to adequately grid the City system.

If required water mains will directly serve property outside the subdivision, the City will reimburse the subdivider an amount estimated to be the proportionate share of the cost for each connection made to the water mains by property owners outside the subdivision for a period of 10 years from the time of installation of the mains. The actual amount shall be as determined by the Commission at the time of the approval of the plat, considering current construction costs.

- E. Sidewalks. Sidewalks shall be installed on both sides of a public street and in any special pedestrian way within the subdivision, except that in the case of primary or secondary arterials, or special type industrial districts, the Commission may approve a subdivision without sidewalks if alternative pedestrian routes are available; and provided further, that in the case of streets serving residential areas having single-family dwellings located on lots equivalent to two and one-half or less dwellings per gross acre, the requirement of sidewalks shall not apply, provided there is no evidence of special pedestrian activity along the streets involved.

- F. Bicycle routes. If appropriate to the extension of a system of existing or planned bicycle routes, the Commission may require the installation of separate bicycle lanes within streets and separate bicycle paths.
- G. Street name signs. Street name signs shall be installed at all street intersections.
- H. Street lights. Street lights shall be installed and shall be served from an underground source of electricity supply.
- I. Other. The developer shall make necessary arrangement with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground.
- J. Street Trees. Street trees of one and one-half inch caliper or greater shall be provided in residential subdivisions. The species of tree shall be from the street tree list and planted in conformance with the Street Tree Ordinance and Street Tree Plan.

2.208.03 IMPROVEMENT REQUIREMENTS

The following improvements shall be installed at the expense of the subdivider or partitioner:

- A. Water supply system. All lots within a subdivision or partition shall be served by the City water supply system.
- B. Wastewater system. All lots within a subdivision or partition shall be connected to the City's wastewater system.
- C. Drainage. Such grading shall be performed and drainage facilities installed conforming to City specifications as are necessary to provide proper drainage within, or adjacent to, the subdivision or partition, in order to assure healthful, convenient conditions for the residents of the subdivision and for the general public. Drainage facilities in the subdivision shall be connected to drainageways or storm sewers outside the subdivision. Dikes and pumping systems shall be installed if necessary to protect the subdivision against flooding or other inundations.
- D. Streets. The subdivider or partitioner shall grade and improve streets in and adjacent to subdivisions and partitions, including the extension of such streets to the paving line of existing streets with which such streets intersect, in conformance with City specifications. Street improvements shall include related improvements such as curbs, gutters, shoulders, and median strips, to the extent these are required.
- E. Pedestrian ways. A paved sidewalk, not less than 5 feet wide, shall be installed along all streets within or adjacent to land divisions, and in the center of pedestrian ways within such developments.

2.208.04 PERFORMANCE GUARANTEES

When required, the applicant shall file a performance guarantee to insure the full and faithful performance of all terms of an improvement agreement (e.g., conditions of approval), if any, or to insure completion of all work for which permits are required. A performance guarantee shall be at a minimum one of the following:

- A. A surety bond in a form approved by the City Attorney in an amount equal to 120 percent of the construction cost of required improvements, as verified by the City.
- B. A deposit with the City, or at the option of the City, a verified deposit with a responsible escrow agent or trust company, or cash or negotiable bonds in an amount equal to 120 percent of the construction costs of the required improvements, together with an agreement that the deposit may be disbursed only upon City approval of disbursement.
- C. An agreement between the City, the developer and one or more financial or lending institutions pledging that funds equal to 120 percent of the construction cost of all required improvements are available to the applicant and are guaranteed for payment for the improvements.
- D. An agreement between the developer and the City that no building permits for any structures within the development will be issued until all improvements have been completed by the applicant and accepted by the City.
- E. Improvements are only one part of the conditions of approval and are not intended to replace or circumvent the conditions of approval.

2.209 SPECIAL USE REQUIREMENTS

2.209.01 GENERAL PROVISIONS

A. Applicability of Special Use Standards

Special uses included in this Section are uses, which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards.

These special use standards may differ from the development standards established for other uses in the same Zoning District. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

B. Process

The status of a special use as a permitted or conditional use is set forth in the underlying Zoning District.

Conditional uses shall be processed in accordance with the criteria and procedures specified in Section 3.201. Permitted uses shall be reviewed for compliance with the standards of Chapter Two – Zoning and Development Provisions, in the manner specified in the particular special use section.

Special uses, which are conditional uses in the underlying Zoning District, shall be reviewed for compliance with the standards of Chapter Two – Zoning and Development Provisions during the review of the Conditional Use Permit. In addition to any specific requirements under the special use, the following information shall be included with the application submittal:

1. A description of the proposed use and specific reason for the request.
2. A vicinity map indicating the relationship of the proposed use to the surrounding area.
3. A site plan of the property, including existing and proposed improvements, and other information necessary to address the requirements and conditions associated with the use.
4. A building profile of proposed new or remodeled structures, as applicable.
5. Information addressing the criteria set forth under Section 3.201, Conditional Use Permits.

2.209.02 PLACEMENT OF MANUFACTURED HOMES

A. Scope

Manufactured homes shall be subject to the development standards of the underlying zoning district. The following general standards are applicable to all manufactured homes sited on individual lots within the City of Falls City.

B. General Standards

1. The manufactured home shall be multi-sectional and shall enclose a space of no less than 1000 square feet.
2. The manufactured home shall have a roof with a minimum pitch of 3 feet in height for each 12 feet in width (3/12).
3. Roofing material shall be composition asphalt, fiberglass, wood shake, or tile.
4. The exterior siding must be standard wood siding, T-111, or a siding of equivalent appearance. The siding materials shall have no reflective, unpainted, or uncoated metal siding.
5. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the State Building Code as defined in ORS 455.010, as amended. Any unit manufactured within 10 years from the date of application shall be deemed to meet this subsection.
6. Transportation mechanisms, including wheels, axles, and hitch must be removed prior to occupancy.
7. The manufactured home shall be provided with gutters and downspouts to direct storm water away from the placement site.
8. A manufactured home shall not be placed within an acknowledged historical district nor adjacent to a historic landmark.
9. New and used manufactured dwellings must be sited, installed, altered, repaired, and occupied in accordance with the Oregon Manufactured Dwelling Standard (OMDS).
10. All alterations, conversions, repairs, and re-manufacturing of manufactured homes shall be made according to the provisions of Chapter 10 of the Oregon Manufactured Dwelling Standard (OMDS).

- C. No person shall place a manufactured home on an individual lot or on a space within a manufactured home park within the City until an installation permit has been obtained from the City Recorder. To obtain an installation permit, a person shall complete an application form available at City Hall and shall submit it, along with the following information, to the City Recorder:
1. A site plan showing the proposed location of the manufactured home on the lot or space;
 2. A description of the manufactured home and the name of the owner.
 3. Application for city sewer and water service connections for the manufactured home together with all required deposits and hookup fees required by the City.
 4. Proof that the manufactured home complies with all applicable Federal and State construction standards for the manufactured home.
 5. A copy of the factory specification sheets for the manufactured home.
 6. Payment of the required application fee.
- D. Upon submission of a complete application for an installation permit, the Planning Commission (or City staff if a Type I review) shall review the proposal within 30 days. The Planning Commission or City staff shall approve the application unless it is determined that the proposal would violate a standard of this section, the applicable zone, or any other provision of this Ordinance.
- E. Any decision on an application for an installation permit hereunder may be appealed to the City Council in accordance with the provisions set forth in Chapter Three – Application and Review Provisions.
- F. Installation:
1. The manufactured home 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 18 inches above grade. The foundation must be constructed of concrete or concrete block. The foundation shall be installed according to one of the methods listed in the most current Oregon Manufactured Dwelling Standards.
 2. Manufactured homes to be located on a space within a manufactured home park shall be installed upon a foundation or footings according to requirements of State statutes and regulations. A manufactured skirting shall be installed in those areas around the perimeter of the manufactured home, which are not developed with a foundation. The underfloor crawlspace shall be entirely enclosed with a perimeter foundation, skirting, or equivalent.

- G. The manufactured home shall have an enclosed, attached or detached garage or carport. The garage shall be constructed of materials, which are similar in color, material, and appearance to the manufactured home. The garage shall be constructed prior to occupancy. Each carport or garage shall enclose a space of not less than 300 square feet.
- H. The manufactured home and any manufactured home accessory buildings shall be constructed and maintained in conformance with the State and Federal safety construction standards, applicable at the time of placing the manufactured home. The manufactured home shall bear the Oregon “Insignia of Compliance” in a conspicuous location on the exterior of the home.
- I. Removal:
 - 1. If a manufactured home on an individual lot is removed from its foundation, the owner of the lot shall remove the foundation, accessory buildings, and structures to ground level and permanently disconnect and secure all utilities within 30 days after removal of the manufactured home from the foundation. This condition shall not apply, however, in the event that the original manufactured home is replaced by another approved manufactured home on the original foundation within 60 days after the original manufactured home is removed.
 - 2. If, within the time allotted, the owner fails to complete the removal, the City may perform the work and place a lien against the property for the costs incurred.
- J. Temporary Use:
 - 1. A manufactured home may be used as a temporary residence on an individual lot during the construction of a modular or site-built housing unit on the same lot. Such a temporary residence shall be occupied by the owner of the lot on which the manufactured home is located.
 - 2. A manufactured home used as a temporary residence shall only be placed on a lot for which a building permit for a modular or site-built housing unit has been issued. A temporary permit shall be obtained from the City Administrator Recorder prior to placement of the temporary residence manufactured home. The temporary permit shall be displayed at all times on the exterior of the manufactured home.
 - 3. The temporary residence manufactured home shall be completely removed no later than 8 months from the date on which the occupancy permit for the housing unit is issued.
 - 4. All utilities shall be connected to the manufactured home in compliance with City and State requirements prior to occupancy.

2.209.03 TEMPORARY MANUFACTURED DWELLING FOR MEDICAL HARDSHIP PURPOSES

- A. A manufactured dwelling may be allowed as an accessory use to a dwelling in any zone in order to alleviate a medical hardship. The manufactured dwelling to be used must meet all applicable City, County and State health and building requirements. The manufactured dwelling shall be used in conjunction with a permanent residential structure on the same lot or parcel. A bonafide medical hardship shall be substantiated by a statement from the attending physician that the manufactured dwelling is necessary to provide adequate and immediate health care for a relative who needs close attention and who would otherwise be required to receive needed attention from a hospital or care facility. Tenancy of the manufactured dwelling shall be limited to a member or members of the property owner's immediate family or a person (and immediate family) who is directly responsible for care of the owner or members of the owner's immediate family.
- B. Manufactured dwellings used for medical hardship purposes shall contain more than 320 square feet of occupied space and shall bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976.
- C. Conditions of Approval for Hardship Dwellings.
1. A temporary manufactured dwelling for hardship purposes shall be valid only for the current owner(s) of the property. The manufactured dwelling shall be removed when the need to relieve a family hardship no longer exists, or upon sale, transfer or disposal of the property.
 2. Approval of a temporary manufactured dwelling for hardship purposes shall be renewed annually by the applicant. To renew the hardship approval, the applicant shall submit to City Staff a notarized statement attesting that either the hardship for which the manufactured dwelling was granted is still in existence; or the hardship no longer exists and the manufactured dwelling has been removed.
 3. A temporary manufactured dwelling for hardship purposes shall be connected to an existing septic system, if applicable, and if authorized by the County Sanitarian. The County Sanitarian may inspect the septic system as allowed by State law and collect the appropriate fees for such inspection. Installation of a second septic system on the property to serve a hardship manufactured dwelling shall not constitute a vested right for a second permanent dwelling.
 4. Temporary manufactured dwellings shall not be expanded or attached to a permanent structure.
 5. The temporary manufactured dwelling shall be required to meet all setback requirements for the zone in which it is located.
 6. A deed covenant recognizing the provisions of this section shall be signed by the property owner and recorded in the County Deed Records for the subject property prior to issuance of permits of placement of the dwelling.

2.209.04 HOME OCCUPATIONS

- A. Intent: The intent of the home occupation provisions of this Ordinance is to recognize the needs of people who are engaged in small-scale businesses or professional operations from their place of residence. The residential character is maintained and the home occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term. A home occupation shall not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their home for which purpose the Residential Zone was created and primarily intended.
- B. Process: Home Occupations are allowed as an accessory use to any residential use in the City of Falls City. The standards of this Section shall govern all home occupations. There are two types of home occupations, Type A and Type B.
1. Type A. The Type A home occupation is one where the residents use their home as a place of work; however, no employees or customers come to the site. Examples include artists, craftspeople, writers, and consultants. Type A home occupations also provide an opportunity for a home to be used as a business address without requiring a commercial workplace.
 2. Type B. The Type B home occupation is one where either one employee or sequential customers come to the site. Examples are counseling, tutoring, and hair cutting and styling. Type B home occupations are subject to the Type I approval process listed in Section 3.102.
- C. Standards: A home occupation may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:
1. Participation: No more than one person shall be employed who is not a resident of the home in which the home occupation is to be established.
 2. Character: No Structural alterations shall be made which affect the residential character of the building. The character and primary use function of the residence and premises shall not be changed by the use of colors, materials design, construction, lighting, landscaping or lack of landscaping.
 3. Location: The business or activity shall be conducted wholly within the home or within a small accessory building which is residential in character and not larger than ½ the floor area of the house.
 4. Noise: A home occupation shall not create noise of a type, duration or intensity which exceeds 60 decibels, measured at the property line, between the hours of 7:00 a.m. and 6:00 p.m. No noises shall be created by the home occupation between the hours of 6:00 p.m. and 7:00 a.m. that is detectable to normal sensory perception off the premises of the home occupation.

5. Equipment and Process Restrictions: No home occupation shall create vibration, glare, fumes, odors, or electrical interference detectable to normal sensory perception outside the dwelling unit. In the case of electrical interference, nothing shall be used which creates visual or auditory interference in any radio or television off the premises.
6. Traffic: A home occupation located on a local street, or privately maintained road serving three or more residences, shall not generate more than 20 vehicle trips in one day. A “trip” is a vehicle traveling in one direction to or from a source. 20 trips is equivalent to 10 round trips.
7. Hazards: No equipment or process shall be used which will change the fire rating or structure separation, fire wall, or ventilation requirements for the structure in which the home occupation is located. No hazardous materials shall be used or stored on the property in quantities not typical of those customarily used in conjunction with activities or primary uses allowed in the Zoning District.
8. Signs: Signing shall be as provided in Section 2.204.
9. On-Premise Client Contact: Customer and client contact shall be primarily by telephone or mail, and not on the premises of the home occupation, except those home occupations, such as tutoring, counseling or personal services, which cannot be conducted except by personal contact. Services or sales conducted on the premises shall be by appointment only, and shall not be oriented toward, or attract, off-the-street customer or client traffic.
10. Deliveries and Large Vehicle Storage: Delivery of materials to and from the premises shall not involve the use of vehicles over two (2) ton capacity, except parcel post or private parcel delivery trucks. Vehicles over one 1 ton capacity and used in conjunction with a home occupation shall be stored within an enclosed structure on the property. Regardless of capacity, storage of vehicles within the public right-of-way shall be prohibited.
11. Parking: Parking spaces needed for the conduct of a home occupation shall be provided off the street, in defined areas which are appropriately designed and surfaced for that purpose, and not located within the side or rear yard setbacks of the district. No more than 2 home occupation-related vehicles shall be located on the property at one time.
12. Storage and Use of Yard Areas: Storage of tools, equipment and materials, and display of merchandise and all other activities associated with a home occupation, except as provided above for parking, shall be contained and conducted wholly within covered and enclosed structures and shall not be visible from the exterior of the containing structure(s). Home occupations which involve the care of children by a baby sitter may use rear yard areas for playground equipment.

13. Day care facilities with 12 or fewer children or group care homes shall not be subject to the provisions of this Section.
- D. Process. Home occupations are allowed as an accessory use to any residential use in the City of Falls City. Type B home occupations are subject to the Type I approval process listed in Section 3.102. The standards of this Section shall govern all home occupations.
- E. Non-Compliance. Any home occupation which does not comply with the requirement of this Section and the provisions of the underlying district shall be a violation of this Ordinance and shall be subject to the penalties and remedies of Chapter One – General Ordinance Provisions.

2.209.05 RECREATIONAL VEHICLE (RV) PARKS

- A. Locational Standards: Recreational parks should be located on a site taking access from a street classified as a collector or arterial on the Transportation Map in the Comprehensive Plan.
- B. Process: Applications for recreational parks shall be subject to Site Design Review, as set forth in Section 3.203.
- C. Size and Density Standards:
 1. RV parks shall be at least three (3) acres in size.
 2. The maximum number of RV spaces shall be 18 per gross acre.
 3. Each Recreational Vehicle space shall contain a minimum of 1,500 square feet, exclusive of roadways.
- D. Design Standards:
 1. Parking. At least one RV parking pad (14 feet by 50 feet minimum) shall be provided at each RV space. Parking pad(s) shall be surfaced with asphalt or concrete over a gravel or crushed rock base. Thickness of surface and base shall be capable of withstanding use by RVs.
 2. Utilities and Water Supply. A minimum of 25 percent of the recreational vehicle campsites shall be provided with the following improvements:
 - a. Utilities. Each RV space shall be provided with electrical service. Utilities shall be located underground except where required to be overhead by the City or utility purveyor.
 - b. Water Supply. Each RV space shall be provided with piped, potable water. The water supply shall meet the requirements of the State of Oregon Health Division and shall be connected to the City water system.

3. Sewage Disposal.
 - a. Each RV space shall be provided with a sanitary sewer hook-up. The sewage disposal system shall meet the requirements of the State of Oregon Department of Environmental Quality (DEQ) and
 - b. If a sanitary waste pump station is provided, it shall meet the standard of DEQ and shall be screened from RV spaces and adjacent property. Screening shall be achieved with:
 - i. A sight-obscuring fence or wall not less than 6 feet nor more than seven (7) feet in height; or
 - ii. Maintained evergreen landscaping which will mature within five (5) years and reach a height of at least six (6) feet at maturity; or
 - iii. A combination of (a) and (b), above.
4. Restroom facilities shall be provided in accordance with State standards.
5. Setbacks. No RV parking space or park structure shall be located within 25 feet of a public right-of-way or within 20 feet of a property line. All other setback requirements along the periphery of the site shall be the same as those required by the underlying District.
6. Vision Clearance Area. A clear vision area shall be maintained at the entrance and exit to the facility.
7. Common Use Recreation Areas. A minimum of eight (8) percent of the gross site area for the park shall be developed as common use areas for recreational facilities or recreational open space.
8. Common Facilities. For each 15 RV spaces or fraction thereof the park shall provide toilets, lavatories, and showers for each gender in the following ratios: one toilet, one urinal, one lavatory, and one shower for men; and 3 toilets, one lavatory, and one shower for women. The toilets and showers shall afford privacy and the showers shall be provided with private dressing rooms.
9. Building spaces shall be lighted at all times, shall be ventilated, and shall be provided with heating facilities which maintain a comfortable room temperature when the park is occupied. Buildings shall have floors of waterproof material, sanitary ceiling, floor, and wall surfaces, and shall be provided with adequate floor drains to permit easy cleaning.
10. Drainage. Park roadways and spaces shall be designed to facilitate water run-off. A drainage plan shall be submitted and approved in accordance with Section 2.206.

11. Refuse Disposal. Durable, water-tight, easy-to-clean refuse containers shall be provided at the rate of eight (8) cubic feet (60 gallons) for each five (5) RV spaces. Refuse containers shall be located in such a manner that at least one readily accessible refuse container is within 150 feet of any RV space.
- E. Caretaker's Residence. A caretaker or manager's residence and/or an office may be provided within the RV park.
 - F. Access and Circulation:
 1. Roadways shall be paved with asphalt or concrete and shall be designed to permit easy access to each RV space. Roadway widths shall be as follows:
 - a. A one-way road shall be a minimum of 15 feet in width, plus eight (8) feet for each lane of parallel parking which is provided.
 - b. A two-way road shall be a minimum of 24 feet, plus seven (7) feet for each lane of parallel parking which is provided.
 2. Any roadway or driveway which does not provide for continuous circulation shall not exceed 600 feet and shall be terminated with a turnaround having a diameter of at least 60 feet.
 - G. Perimeter Treatment. Except as required for vision clearance, the perimeter of the park shall be improved with:
 1. A sight-obscuring fence or wall not less than at least six (6) feet nor more than seven (7) feet in height; or
 2. Maintained evergreen landscaping that will mature within three (3) years and will reach a height of at least six (6) feet at maturity; or
 3. A combination of (a) and (b), above.
 - H. Compliance with State and County Standards: All recreational vehicle shall comply with all applicable rules and regulations of State agencies governing such facilities.
 - I. Maximum Occupancy Period: No individual or group shall be permitted to occupy a space within the RV Park for a consecutive period of more than 14 days in a 30-day period. Movement to another space within the facility, or movement from the park for a period of less than three days, shall not be construed as renewing this 14-day maximum occupancy period.

2.209.06 MANUFACTURED HOME PARKS

- A. Application Procedures: Applications for use of land as a manufactured home park, or for the expansion of an existing manufactured home park, shall be subject to the

procedures and submittal requirements of Site Design Review, as set forth in Section 3.203.

- B. Density. The maximum density of a manufactured home park shall not exceed 8 units per gross acre.
- C. In the event the manufactured home park is under 3 acres in total size, any unit placed therein shall meet the standards under the definition of a manufactured home as defined in this Ordinance.
- D. Setbacks. The following setback standards shall apply:
 - 1. General park development: Setbacks for structures other than manufactured homes, carports and related accessory buildings shall comply with the minimum residential setbacks in the underlying zoning district.
 - 2. Manufactured homes:
 - a. Front: Five (5) feet minimum to the sidewalk; eight (8) feet minimum to the curb.
 - b. Side and rear: 15 feet minimum to any adjacent manufactured home; 10 feet minimum to any adjacent non-residential structure.
 - c. Manufactured homes on the periphery of a manufactured home park shall maintain the same setback as required for the front, side and rear yard in the underlying zone.
 - d. Accessory structures:
 - i. Front: Five (5) feet minimum to the sidewalk; eight (8) feet minimum to the curb.
 - ii. Adjacent Side and rear: six (6) feet minimum to any adjacent manufactured home, or nonresidential structure.
 - e. Carports:
 - i. Front: 20 feet minimum to the sidewalk or curb, if a sidewalk is not provided.
 - ii. Side and rear: Carports attached to, or within three (3) feet of, the manufactured home shall comply with the setbacks for the manufactured home. Otherwise, the setback provisions for accessory structures shall apply.
- E. Driveways. Access drives shall be provided to each space, shall be continuous, shall connect with a public street, shall have a minimum width of 20 feet, and shall be paved

with an asphalt or concrete surface to the same cross-sectional requirements established for local City streets. In addition, if parking is to be permitted along the driveway, a minimum width of 30 feet is required. All driveways shall be adequately designed to permit safe, easy access by emergency vehicles.

- F. **Patio.** Each manufactured home space shall have a slab, patio, concrete, asphalt or flagstone or similar rot-resistant substance, having a minimum area of 120 square feet
- G. **Parking.** A minimum of two (2), off-driveway parking spaces shall be provided for each manufactured home space, or community parking for second vehicles. Such off-street parking shall meet the design standards established in Section 2.202, Off-street Parking and Loading.
- H. **Storage.** A storage space in a building having a gross floor area of at least 60 square feet shall be constructed and completed prior to occupancy or the manufactured home for storing the outdoor equipment and accessories necessary to residential living. Such structures shall comply with all setback requirements, and shall be subject to all of the applicable provisions of State Statutes and Regulations. Accessory buildings which are placed on a manufactured home space shall be sited in a manner to not hinder or restrict access to the side and rear yard areas adjacent to the manufactured home.
- I. **Open Space.** All open areas, except as otherwise specified herein, shall be landscaped and maintained. Perimeter landscaping may be required by the Planning Commission through the Site Design Review process when necessary to provide a buffer from adjacent residential development. A minimum of at least 5,000 square feet per 25 manufactured home spaces or portion thereof shall be provided for a recreational play area or group and/or community activities. No approved open space area shall contain less than 5,000 square feet. The floor area of indoor facilities, such as a community building, may be included in calculating the open space requirement.
- J. **Minimum area.** The minimum area to be contained on a manufactured home space by a manufactured home and its accessory structures shall be 3,500 square feet.
- K. **Minimum width.** No manufactured home space shall be less than 40 feet in width at its driveway frontage.
- L. **Boundaries of space.** The boundaries of each manufactured home space shall be clearly marked by a fence, landscaping, or by permanent markers.
- G. **Walks.** Provisions shall be made for a walk from each manufactured home to each driveway. All walks must be hard surfaced, well drained and not less than 36 inches in width. All walks adjacent to driveways and thoroughfares shall be curb line walks.
- H. **Manufactured home space coverage.** Not more than 45 percent of a manufactured home space may be occupied by a manufactured home and its accessory structures, whether or not it is attached to the manufactured home.

- I. Lighting. Common driveways and walkways must be adequately lighted.
- J. Skirting. All manufactured homes shall have skirting around the exterior of the manufactured home or they may be situated upon a continuous foundation meeting the approval of the City building code.
- K. Utilities. All utility services shall be underground. The applicant shall furnish the City with proper easements for reading the meters and for inspecting water and sewer lines. All meters and water and sewer lines shall be maintained by the park owners to City standards.
- L. Water, sewer and surface drainage. Adequate provisions shall be made for an amply supply of safe and potable water and adequate provisions shall be made for sewage disposal and surface drainage and plans for such must have prior approval of the Oregon Health Division and DEQ, respectively, and the City Engineer before a manufactured home park is approved. All meters, sewer and water lines shall be inspected while being installed and the installation shall meet normal City standards.
- M. Additions to manufactured homes. Carports, cabanas, ramadas, awnings, and all other structures, whether defined herein or not, which are situated upon a manufactured home space and are attached to the manufactured home, shall conform to the requirements of the State building code. Such additions and structures shall be considered as a portion of the manufactured home for determining the extent of lot coverage, setback lines and all other requirements for manufactured homes, as if such additions and structures were a part of such manufactured home.
- N. No part of any manufactured home park shall be used for the parking or storage of any heavy equipment, or trucks with a rated capacity exceeding tow (2) tons.
- O. A caretaker, owner or manager shall be responsible for keeping the manufactured home park, its facilities and equipment in a clean, orderly and sanitary condition.
- P. No enlargements or expansions of any existing manufactured home park shall be permitted, unless the existing one is made to conform substantially, with the requirements of this subsection.
- Q. The entire manufactured home park or each phase or unit of development shall comply with all requirements of this subsection prior to occupancy.
- R. Prior to the issuance of a permit for the construction of a manufactured home park,, the applicant shall submit the following construction plans, together with the appropriate fee established by resolution of the City Council, for the review and approval of the City Engineer:

1. Plans: With each application for a construction permit, the applicant shall submit 10 sets of construction plans and specifications. Plans and specifications shall be drawn to scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that it will conform to the provisions of this Ordinance and all other relevant laws, rules and regulations of the State of Oregon pertaining to manufactured home parks.
2. Design: All plans shall be designed in accordance with the performance requirements of this Ordinance and public works standards. Such plans shall be certified by an engineer registered in Oregon.
3. Applications for a construction permit shall contain the following information:
 - a. Name of the manufactured home park.
 - b. Location of the site on a vicinity map.
 - c. Name of owner and developer.
 - d. Name of person who prepared the plans.
 - e. Plot plans and/or cross-sections depicting:
 - i. Scale of plans and north point.
 - ii. Proposed and existing construction.
 - iii. Location of existing utilities abutting the site.
 - iv. Location of open space and/or play areas.
 - v. Property line boundaries.
 - vi. Designation of each manufactured home space by number.
 - vii. Location of manufactured home sewer connections and service electrical outlets.
 - viii. Water, sewer and storm drain location, size, materials and profiles.
 - ix. Lighting fixture locations for street and walkways.
 - x. Park street layout, street names, profiles and cross-sectional details.
 - xi. Site topography shall be shown when any existing grade exceeds five (5) percent.
 - xii. Fire hydrant location.

xiii. Off-street parking spaces.

xiv. Patio and/or deck areas and construction materials.

- S. Expiration of Construction permits: Construction permits issued under the provisions of this subsection shall expire if the construction authorized by such permit is not commenced within 180 days from the date of such permit, or if the construction authorized by such permit is suspended for a period of 180 days, or abandoned at any time after the work is commenced. Before such construction can be recommenced, the applicant shall first obtain a new construction permit. The application fee for such new permit shall be reduced to one-half of the original fee, provided no significant changes have been made in the original plans and specifications for such permitted work and, further, that the duration of the suspension of work or abandonment has not exceeded one year.

2.210 HISTORIC BUILDINGS AND SITES

2.210.01 PURPOSE

The City of Falls City recognizes that certain significant historic resources located within its boundaries contribute to the unique character of the community and are irreplaceable, and as such, merit preservation. This ordinance establishes a Historic Landmark Commission; a program for the identification, evaluation, and designation of historic resources as landmarks; public incentives for the preservation of Designated Landmarks; and land use regulations regarding the alteration, moving or demolition of Designated Landmarks and Historic Resources of Statewide Significance.

2.210.02 APPLICABILITY

The provisions of this Section shall apply to designated Historic Landmarks inventoried on the City's Significant Resources Map.

2.210.03 Definitions

The following definitions apply to terms used in this ordinance. Terms not defined have their commonly construed meaning.

Alteration - An addition, removal, or reconfiguration which significantly changes the character of a historic resource, including new construction in historic districts.

Demolition - The razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.

Designated Landmark - A property officially recognized by the City as important in its history.

Designated Landmarks Register - The list of, and record of information about, properties officially recognized by the City as important in its history.

Extraordinary Historic Importance - The quality of historic significance achieved outside the usual norms of age, association, or rarity.

Historic Integrity - The quality of wholeness of historic location, design, setting, materials, workmanship, feeling, and/or association of a resource, as opposed to its physical condition.

Historic Resource - A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a land mark. Resource types are further described as:

Building - A construction made for purposes of shelter or habitation, e.g. house, barn, store, theater, train station, garage, school, etc.

Structure - A construction made for functions other than shelter or habitation, e.g. bridge, windmill, dam, highway, boat, kiln, etc.

Object - A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g. statue, fountain, milepost, monument, sign, etc.

Site - The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e.g. battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, etc.

District - A geographically defined area possessing a significant concentration of buildings, structures, objects, and/or sites which are unified historically by plan or physical development, e.g. downtown, residential neighborhood, military reservation, ranch complex, etc.

Historic Resources of Statewide Significance - Buildings, structures, objects, sites, and districts which are listed on the National Register of Historic Places.

Inventory of Historic Resources - The record of information about resources potentially significant in the history of the City.

Relocation - The removal of a resource from its historic context.

2.210.04 FALLS CITY HISTORIC LANDMARK COMMISSION

- A. The Mayor and the City Council shall appoint a Historic Landmark Commission, hereinafter the Commission, of three (3) members with a demonstrated positive interest, knowledge, or competence in historic preservation to carry out the provisions of this ordinance. A majority of the members shall reside within the corporate boundaries of the City. Members shall serve without compensation, but are eligible for reimbursement of expenses related to their service.
- B. Initial appointments to the Commission shall be for terms of one, two and three years. Subsequent terms of appointment shall be for three years, or in the case of a replacement, for the remainder of the unexpired term. Members shall be eligible for re-appointment.
- C. A simple majority of the seated members shall constitute a quorum to conduct official business.
- D. A Chair and Vice-Chair shall be elected annually by and from the seated membership. Officers are eligible for reelection.
- E. The Commission shall meet at least twice a year, and as required to conduct business in a timely fashion. Notice of the meetings shall be in accordance with applicable state law. Minutes, applications, staff reports, findings, and decisions of the Commission shall be maintained as public records in accordance with applicable state law.

2.210.05 POWERS AND DUTIES OF THE CITY OF FALLS CITY HISTORIC LANDMARK COMMISSION

- A. The Commission may adopt and amend by-laws, subject to approval by the City Council, to regulate its internal operations.
- B. For purposes consistent with this ordinance and subject to the approval of the City Council, the Commission may seek, accept, and expend public appropriations; seek, accept, and expend grant and gift funds; cooperate with public and private entities; and employ clerical and expert assistance.
- C. The Commission may undertake to inform the citizens of, and visitors to the City regarding the community's history and prehistory; promote research into its history and prehistory; collect and make available materials on the preservation of historic resources; provide information on state and federal preservation programs; document historic resources prior to their alteration, demolition, or relocation and archive that documentation; assist the owners of historic resources in securing funding for the preservation of their properties; and recommend public incentives and code amendments to the City Council.
- D. The Commission may develop and publish, or adopt, written and graphic guideline and example materials to clarify the criteria in this ordinance and to assist applicants in developing complete and viable applications.
- E. Employing the procedures and criteria in Section 2.210.05, the Commission shall periodically identify and evaluate the historic resources of the City and maintain an Inventory of Historic Resources. At such time as surveys are being conducted, owners of the subject properties shall be notified and invited to provide comment and input.
- F. Employing the procedures and criteria in Section 2.210.07, the Commission shall periodically revise the Designated Landmarks Register of the City of Falls City, by adding or deleting properties.
- G. Employing the procedures and criteria in Section 2.210.07, the Commission shall review and act upon applications for the alteration, relocation, or demolition of Designated Landmarks, or the major exterior alteration, relocation, or demolition of Historic Resources of Statewide Significance.
- H. The Commission shall advise and make policy recommendations to the City Council and the Planning Commission on matters relating to historic preservation; and shall make an annual report, in writing, to the City Council on its activities and expenditures during the preceding twelve months, and its projected activities and expenditures for the following twelve months.

2.210.06 THE INVENTORY OF HISTORIC RESOURCES

- A. The Commission shall determine and periodically revise priorities for the identification and evaluation of historic resources.
- B. Unless the Commission finds extraordinary historic importance, only properties over fifty years of age shall be considered for inclusion in the Inventory of Historic Resources.
- C. The Commission shall develop or adopt a system, based on historic integrity and significance, for evaluating historic resources. The system shall rank surveyed historic resources as eligible, potentially eligible, or ineligible for listing on the Designated Landmarks Register. Owners of surveyed properties will be notified of these findings.
- D. Documentation of properties in the Inventory of Historic Resources shall be on forms compatible with the Statewide Inventory of Historic Properties, and upon completion, copies of the forms shall be supplied to the State Historic Preservation Office.
- E. Records concerning archaeological sites shall not be made available to the public.

2.210.07 THE DESIGNATED LANDMARKS REGISTER

- A. Properties listed on the National Register of Historic Places, including all properties within National Register Historic District boundaries, are eligible for automatic listing on the Designated Landmarks Register. As Historic Resources of Statewide Significance, all such properties are subject to the regulations in Section 2.210.08 regardless of their listing on the Designated Landmarks Register, pursuant to Oregon Administrative Rule 660-023-200. However, only properties listed on the Designated Landmarks Register shall be eligible for public incentives and code considerations pursuant to this ordinance.
- B. Any individual or group, including the Commission acting on its own initiative, may nominate a historic resource for inclusion on or removal from the Designated Landmarks Register by submitting a complete application to the Commission. The burden of proof lies with the applicant. No property shall be so designated without the written consent of the owner or, in the case of multiple ownership, a majority of the owners.
- C. The Commission shall establish standards for a complete application. Upon acceptance of a complete application the Commission shall schedule a public hearing pursuant to applicable state laws.
- D. In order to be included or maintained on the Designated Landmarks Register the Commission must find that the historic resource is over fifty years of age or of extraordinary historic importance, and possesses sufficient historic integrity, and:
 - 1. The resource is associated with events that have made a significant contribution to the broad patterns of local, state, or national history; or

2. The resource is associated with the lives of persons, or groups of people, significant in local, state, or national history; or
 3. The resource embodies the distinctive characteristics of an architectural type, style, period, or method of construction or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
 4. The resource has yielded or is likely to yield information which is important in local, state, or national history.
- E. The Commission shall develop findings to support its decisions. These findings shall indicate those elements of a property, including interior, landscape, and archaeological features, that are included in the designation and subject to regulation under the provisions of this ordinance.

2.210.08 REVIEW OF ALTERATIONS AND CONSTRUCTION

- A. No exterior, interior, landscape, or archaeological element of a Designated Landmark which is specified as significant in its designation shall be altered, removed, or demolished without a permit issues pursuant to this ordinance.
- B. No major exterior alteration, relocation, or demolition of a Historic Resource of Statewide Significance shall be allowed without a permit issued pursuant to this ordinance.
- C. Prior to submitting an application for a permit pursuant to this section, proponents are encouraged to request a pre-application conference to review concepts and proposals. The Commission may form ad hoc committees for this purpose. Commission members participating in pre-application conferences shall disclose their ex-parte contact at the time of a public hearing of the proposal.
- D. The Commission shall establish standards for a complete application. Upon acceptance of a complete application the Commission shall schedule a public hearing pursuant to applicable state laws.
- E. In cases requiring a public hearing, the Commission shall review and act upon applications for the alteration, relocation, or demolition of a Designated Landmark, or the major exterior alteration, relocation, or demolition of a Historic Resource of Statewide Significance. The burden of proof lies with the applicant. Applications may be approved, approved with conditions, or denied. The City shall include any conditions imposed by the Commission in permits issues pursuant to this section.
- F. In order to approve an application for the alteration of a Designated Landmark or the major alteration of a Historic Resource of Statewide Significance, the Commission must find that the proposal meets the following standards:

1. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
 2. The historic character of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property shall be avoided.
 3. A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
 4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
 7. Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
 8. Archaeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.
 9. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
 10. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- G. In order to approve an application for the relocation or demolition of a Designated Landmark or Historic Resource of Statewide Significance, the Commission must find that:
1. No prudent and feasible alternative exists, or

2. The designated property is deteriorated beyond repair, or
 3. The value to the community of the proposed use of the property outweighs the value of retaining the Designated Landmark or Historic Resource of Statewide Significance.
- H. At the hearing of an application to relocate or demolish a Designated Landmark or Historic Resource of Statewide Significance the Commission may, in the interest of exploring reasonable alternatives, delay issuance of a permit for up to 120 days from the date of the hearing. If, ten days prior to the expiration of the delay period the Commission finds that there are still reasonable alternatives to explore, it may apply to the City Council for permission to continue the delay for an additional period of up to 120 days.
- I. In approving an application for the demolition of a Designated Landmark or Historic Resource of Statewide Significance, the Commission may impose the following conditions:
1. Photographic, video, or drawn recordation of the property to be demolished, and/or
 2. Salvage and curation of significant elements, and/or
 3. Other reasonable mitigation measures.
- J. No provision of this ordinance shall be construed to prevent the ordinary repair or maintenance of a Designated Landmark or Historic Resource of Statewide Significance, when such action does not involve a change in design, materials, or appearance.
- K. No provision in this ordinance shall be construed to prevent the alteration, demolition or relocation of a Designated Landmark or Historic Resource of Statewide Significance, when the Building Official certifies that such action is required for the public safety.

2.210.09 PUBLIC INCENTIVES FOR HISTORIC PRESERVATION

Incentives shall be developed by the Planning Commission and if approved, shall be adopted by the City Council by resolution as may be amended from time to time.

2.210.10 APPEALS

- A. Decisions of the Commission can be appealed to the City Council. Decisions of the City Council can be appealed to the Oregon Land Use Board of Appeals.
- B. Procedures for appeals to the City Council shall be the same as those for appeals of Planning Commission decisions.

2.210.11 OTHER PROVISIONS

- A. There is no fee for designation of a historic resource as a Designated Landmark. Fees for other applications shall be determined by the City Council based on the cost of processing the application.
- B. The provisions of this ordinance shall not effect any citation, complaint, prosecution, or other proceeding pending at the time this ordinance is passed.
- C. Should any section, paragraph, sentence, or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have passed all other portions of this ordinance independent of the elimination of any portion as may be declared invalid.

3.100 ADMINISTRATIVE PROCEDURES

3.101 GENERAL PROVISIONS

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

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

3.102 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

All development permits and land use actions, except building permits, shall be decided using the procedures contained in this Section. The procedure “type” assigned to each permit governs the decision-making process for that permit. There are four (4) types of permit/decision-making procedures: Type I, II, III, and IV. These procedures are described in subsections A-D below.

- A. Type I Procedure (Administrative). Type I decisions are administrative reviews processed by the City staff. The review standards are generally clear and objective and allow little or no discretion. This process is further divided into two parts:
 - 1. Type I-A: A ministerial action reviewed by staff based on clear and objective standards. No conditions may be placed on the decision and notice of the decision is sent only to the applicant. Section 3.103 lists the notice requirements. Appeal is to the Planning Commission. The following actions are processed under a Type I-A procedure:
 - a. Access Permit (public street)
 - b. Home Occupation Permit
 - c. Lot Line Adjustment
 - d. Sign Permit
 - 2. Type I-B: A ministerial action reviewed by the Planning Commission based on generally clear and objective standards with some discretion afforded to Planning Commission. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Section 3.104 lists the notice requirements. Appeal is to the City Council. The following actions are processed under the Type I-B procedure:

- a. Partitions
 - b. Site Design Review
 - c. Temporary Hardship Dwelling
 - d. Flood Plain Development Permit
- B. Type II Procedure (Administrative): Type II decisions are made by the City Recorder with public notice and an opportunity for a public hearing. The appeal of a Type II decision is heard by the Planning Commission. The following shall be processed under the Type II procedure:
1. Code Interpretation
 2. Modification to Approval
 3. Partition Plat Modification
- C. Type III Procedure (Quasi-Judicial): Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III decisions generally use discretionary approval criteria. The following actions are processed under a Type III procedure:
1. Conditional Use Permit
 2. Variance
 3. Subdivision
 4. Manufactured home park, Planned Unit Development, or Historic Buildings and Sites
 5. Comprehensive Plan Map Amendments involving five (5) or fewer adjacent land owners
 6. Any Type II application referred by Staff due to Staff's determination that the application does not meet the criteria for a Type II action.
- D. Type IV Action Procedure (Legislative): Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments which apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council. The following actions are processed under a Type IV procedure:
1. Text Amendments to the Comprehensive Plan

2. Text Amendments to the Zoning and Development Code
3. Enactment of a new Comprehensive Plan or Zoning and Development Code text
4. Comprehensive Plan Map Amendments involving more than five (5) adjacent land owner or non-adjacent properties
5. Zone changes
6. Annexation.

3.103 TYPE I-A PROCEDURE (MINISTERIAL)

A. Application Requirements.

1. Application Forms. Type I-A applications shall be made on forms provided by the City.
2. Application Requirements. Type I-A applications shall:
 - a. Include the information requested on the application form;
 - b. Address the criteria in sufficient detail for review and action; and
 - c. Be filed with the required fee.

B. **Administrative Decision Requirements.** The City Recorder's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Recorder shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

C. **Final Decision.** The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The decision is the final decision of the City.

D. **Effective Day.** The decision is effective the day after it is final.

3.104 TYPE I-B AND TYPE II PROCEDURE (ADMINISTRATIVE)

This subsection establishes the procedures to be followed in the consideration of any Type I-B and Type II development permit application, which is not a land use decision.

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

B. Application requirements.

1. Application Forms. Type I-B and Type II applications shall be made on forms provided by the City.

2. Submittal Information. The application shall:
 - a. Include the information requested on the application form;
 - b. Be filed with three (3) copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
 - c. Be accompanied by the required fee;
 - d. Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application as required in Section D. The records of the Polk County Assessor Department are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list. [Alternatively, the applicant may pay a fee for the City to prepare the public notice mailing];
 - e. Include an impact study for all land division applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Ordinance requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Completeness: Upon receipt of an application for a Type I-B or Type II development permit, the City Recorder shall review the application for completeness with respect to the submission requirements of this Ordinance. If the application is incomplete, City Staff shall notify the applicant of exactly what information is missing, within 20 days of the receipt of the application, and allow the applicant to submit the missing information. The application shall not be acted upon until:

1. All necessary information is received and the application is deemed complete; or
2. Should the applicant refuse or fail to submit the missing information, the application will be deemed complete, for the purpose of acting on the application, on the 31st day after the original submission. Incompleteness of an application may be grounds for denial.

3. Within not more than 30 days after the application is deemed complete, Staff will either:
 - a. Send notice of its decision, with any conditions; or
 - b. Notify the applicant in writing that the requested action does not meet the criteria of a Type I-B or Type II Action, and that the application will be processed as a Type III Action (quasi-judicial) land use decision. In this event, the application for the land use decision will be deemed to have been made on the date the application was deemed complete. The applicant shall then comply with the requirements of a Type III Action (quasi-judicial) land use application(s).
 - c. Failure of the City Recorder to take either action as provided in (a) or (b) herein shall be deemed a denial of the application on the 31st day after the application was deemed complete. Decision of the City Recorder will be deemed final the earlier of the date a notice was sent to the applicant or the 31st day after the application was deemed complete.
 - d. Any final decision on a Type I-B or Type II application may be appealed to the Council in accordance with the provisions set forth in Chapter Three – Application and Review Provisions.
4. Approvals of a Type I-B and Type II action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:
 - a. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following:
 - i. Ensure that the standards of the Zoning and Development Ordinance are met; or
 - ii. Fulfillment of the need for public service demands created by the proposed use.
 - b. Changes or alterations of conditions shall be processed as a new administrative action.
 - c. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.

D. Notice of Application for Type I-B and Type II Administrative Decision.

1. Before making a Type I-B and Type II Administrative Decision, the City shall mail notice to:
 - a. All owners of record or real property within 100 feet of the subject site;
 - b. Any person who submits a written request to receive a notice; and
 - c. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process;
3. Notice of a pending Type I-B or Type II Administrative Decision shall:
 - a. Provide a 14-day period for submitting written comments before a decision is made on the permit;
 - b. List the relevant approval criteria by name and number of ordinance sections;
 - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 - d. Include the name and telephone number of a contact person regarding the Administrative Decision;
 - e. Identify the specific permits or approvals required;
 - f. Describe the street address or other easily understandable reference to the location of the site;
 - g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 - h. State that all evidence relied upon by the City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
 - i. State that after the comment period closes, the City shall issue a Type I-B or Type II Administrative Decision. The decision shall be mailed to the

applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;

- j. Contain the following note: “Notice to mortgagee, lien holder, vendor, or seller: The Falls City Development Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

E. Administrative Decision Requirements. The City shall make Type I-B and Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the City Recorder shall approve, approve with conditions, or deny the requested permit or action.

F. Notice of Decision.

1. Within five (5) days after the City Recorder signs the decision, a Notice of Decision shall be posted on the property and sent by mail to:
 - a. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - b. The applicant and all owners or contract purchasers of record of the site which is the subject of the application;
 - c. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - d. Any governmental agency which is entitle to notice under an intergovernmental agreement entered into with the City, and other agencies which were notified or provided comments during the application review period.
2. The City shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted, and shall demonstrate that the notice was mailed to the people and within the time required by law.
3. The Type I-B and Type II Notice of Decision shall contain:
 - a. A description of the applicant’s proposal and the City’s decision on the proposal (i.e., may be a summary);
 - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
 - c. A statement of where the City’s decision can be obtained;
 - d. The date the decision shall become final, unless appealed;

- e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;
 - f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and
 - g. A statement that unless appellant (the person who files the appeal) is the applicant, the hearing on the appeal shall be limited to the specific issues identified in the written comments submitted during the comment period. Additional evidence related to the Notice of Appeal (See subsection H.2.a below) may be submitted by any person during the appeal hearing, subject to any rules of procedure adopted by the City.
- G. Final decision and effective date. A Type I-B or Type II administrative decision is final for purposes of appeal, when it is mailed by the City. Type I-B and Type II administrative decisions are effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.
- H. Appeal. A Type I-B decision may be appealed to the City Council and follows the notice and hearing procedure in Section 3.105. A Type II administrative decision may be appealed to the Planning Commission as follows:
- 1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:
 - a. The applicant;
 - b. Any person who was mailed written notice of the Type II administrative decision;
 - c. Any other person who participated in the proceeding by submitting written comments.
 - 2. Appeal procedure.
 - a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures:
 - 3. Time for filing. A Notice of Appeal shall be filed with the City Recorder within 14 days of the date the Notice of Decision was mailed;
 - 4. Content of notice of appeal. The Notice of Appeal shall contain:
 - a. An identification of the decision being appealed, including the date of the decision;

- b. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - c. A statement explaining the specific issues raised on appeal;
 - d. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
 - e. Filing fee.
5. The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing, or the statutory maximum, whichever is less.
 6. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under Section D, unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The City Recorder or their designee may allow such additional evidence if they determine that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II Administrative Appeals by encouraging persons with standing to submit their specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II Administrative Decision.
 7. Appeal procedures. The hearing procedures in Section 3.105 shall be used for all Type II Administrative Appeals, as provided in subsections 3.105 (D) through 3.105 (H).
- I. Appeal to City Council. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to the City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission appeal.

3.105 TYPE III PROCEDURE (QUASI-JUDICIAL)

This subsection establishes the procedures to be followed in the consideration of any land use application that affects an individual property or a small group of properties. Such actions are quasi-judicial land use actions.

- A. Initiation: An application may be submitted by the property owner, contract purchaser or an authorized agent of the owner or contract purchaser.
- B. Application requirements.

1. Application forms. Type III applications shall be made on forms provided by the City Recorder.
 2. Content. Type III applications shall:
 - a. Include the information requested on the application form;
 - b. Be filed with 3 copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
 - c. Be accompanied by the required fee;
 - d. Include one set of pre-stamped and pre-addressed envelopes for all property owners of record as specified in Section 3.204 (G) (Notice of Hearing). The records of the Polk County Assessor' Office are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list. *[Alternatively, the applicant may pay a fee for the City to prepare the public notice mailing];*
 - e. Include an impact study for all Type III applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water and wastewater system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Ordinance requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.
- C. Completeness: Upon receipt of an application for a quasi-judicial land use action, the City staff shall review the application for completeness with respect to the submittal requirements of this Ordinance. If the application is incomplete, the staff shall notify the applicant of exactly what information is missing, within 28 days of the receipt of the application, and allow the applicant to submit the missing information. The application shall not be scheduled for public hearing until:
1. All necessary information is received and the application is deemed complete; or
 2. Should the applicant refuse to submit the missing information, the application shall be deemed complete, for the purposes of processing the request, on the 31st day after the original submittal. Incompleteness of an application may be grounds for denial.

- D. Combination of Review Procedures: Applications for more than one quasi-judicial land use action for the same property may, at the applicant's discretion, be combined and heard or reviewed concurrently.
- E. Application Review: Quasi-judicial applications shall be heard by the Planning Commission at a public hearing conducted in accordance with the provisions of Chapter Three – Application and Review Provisions. Public notice shall be in accordance with the procedures set forth in Section G, below. Appeal of the Planning Commission decision is to the City Council. The decision of the City Council shall be the final land use action on the application.
- F. Review Standards: If an application for a quasi-judicial land use action was complete when first submitted, or if the applicant submits the requested additional information within 180 days of the original submittal date, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- G. Notice of Hearing.
1. Mailed notice. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City in the following manner:
 - a. At least 20 days before the hearing date, notice shall be mailed to:
 - i. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
 - ii. All property owners of record within 250 feet of the site;
 - iii. Any governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice, or who is otherwise entitled to such notice;
 - iv. Any person who submits a written request to receive notice; and
 - v. For appeals, the appellant and all persons who provided testimony.
 - b. The City Staff shall have an affidavit of notice prepared and made a part of the file. The affidavit shall state the date that the notice was posted on the property and mailed to the persons who must receive notice;
 - c. At least 10 business days before the hearing, the applicant shall post notice of the hearing on the property per Subsection 2 below. The applicant shall prepare and submit an affidavit of posting of the notice which shall be made part of the administrative record.

2. Content of Notice. Notice of appeal of a Type II Administrative decision or a Type III hearing to be mailed, posted and published per Subsection 1 above shall contain the following information:
 - a. The nature of the application and the proposed land use or uses which could be authorized for the property;
 - b. The applicable criteria and standards from the development code that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;
 - d. The date, time, and location of the public hearing;
 - e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals (LUBA);
 - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
 - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and that copies shall be provided at a reasonable cost;
 - h. A statement that a copy of the City's staff report and recommendation to the Planning Commission shall be available at no cost at least 7 days before the hearing, and that a copy shall be provided on request at a reasonable cost;
 - i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings;
 - j. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The Falls City Development Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser."

H. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state to those in attendance that:
 - a. The applicable approval criteria and standards that apply to the application or appeal;

- b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;
 - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals on that issue;
 - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the hearings body grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven (7) days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least 7 days, so that they can submit additional written evidence or testimony in response to the new written evidence.
3. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least 7 days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Planning Commission shall reopen the record per subsection 1 of this section;
- a. When the hearings body re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to Section H is subject to the limitations of ORS 227.178 (“120 day rule”), unless the continuance or extension is requested or agreed to by the applicant;
 - c. If requested by the applicant, the City shall allow the applicant at least 7 days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence.

4. The record.
 - a. The record shall contain all testimony and evidence that is submitted to the City and the hearings body and not rejected;
 - b. The Planning Commission may take official notice of judicially recognizable facts under the applicable law. If the Planning Commission takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
 - c. The review authority shall retain custody of the record until the City issues a final decision.

5. Participants in the appeal of a Type II Administrative decision or a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex-parte contacts (see Section 6 below) as reasonably possible. The public has a countervailing right of free access to public officials. Therefore:
 - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex-parte contacts (as defined in Section 6 below) concerning the application or appeal. The Planning Commission member shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
 - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
 - c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
 - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
 - e. If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;

- f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.
6. Ex-parte communication.
- a. Members of the hearings body shall not:
 - i. Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Section 5 above;
 - ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
 - b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
 - i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
 - ii. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
 - c. A communication between City staff and the hearings body is not considered ex parte contact.
7. Presenting and receiving evidence.
- a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
 - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section H;
 - c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member

of the hearings body may visit the property to familiarize their self with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, they shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.

I. The Decision Process.

1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or a Type III application shall be based on standards and criteria in the Zoning and Development Ordinance. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the development regulations and Comprehensive Plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The hearings body shall issue a final written order containing the findings and conclusions stated in Subsection 2, which either approves, denies, or approves with specific conditions. The hearings body may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City Administrator Recorder within 12 business days after the close of the deliberation.

J. Notice of Decision The applicant and all individuals who have in writing requested notice of the decision, shall be mailed written notice of the action. Such notice shall be provided within five (5) days of the date of the decision. Notices shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

K. Maximum 120-Day Review Limit (Timing Requirements): The City shall take final action on permit applications that are subject to this Section, including resolution of all appeals, within 120 days from the date the application is deemed complete. Any exceptions of this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions - plan and zoning ordinance amendments - under ORS 227.178.).

L. Notice of Decision: Written notice of a Type II Administrative Appeal decision or Type III decision shall be mailed to the applicant and to all participants of record within five (5) business days after the hearings body decision. Failure of any person to receive mailed

notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

- M. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedure for Type III applications on appeal to the City Council shall be the same as for the initial hearing.

3.106 TYPE IV PROCEDURE (LEGISLATIVE)

This subsection establishes the procedures to be followed by the City in the consideration of amendments to the text of this Ordinance or the Comprehensive Plan, or to amendments to the Comprehensive Plan Map or Zoning Map which affect a group of properties or a large area of the City. Such actions are legislative land use actions.

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

B. Notice of Hearing.

1. Required hearings. A minimum of two hearings are required for all Type IV applications, except annexations where only one hearing by the City Council is required.
2. Notification requirements. Notice of public hearings for the request shall be given by the City Recorder in the following manner:
 - a. At least 20 days, but no more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - i. Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment.
 - ii. Any affected governmental agency;
 - iii. Any person who requests notice in writing;
 - iv. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

- b. At least 10 days before the scheduled Planning Commission public hearing and 10 days before the City Council’s final hearing date, notice shall be published in a newspaper of general circulation in the City.
 - c. The City Recorder or their designee shall:
 - i. For each mailing of notice, file an affidavit of mailing in the record as provided by Subsection a; and
 - ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
 - d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of the proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.
 - e. Notifications for annexation shall follow the provisions of this section, except as required for local government boundary commissions (ORS 199).
3. Content of notices. The mailed and published notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of City Hall where the additional information about the application can be obtained;
 - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
 - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See subsection C below); and
 - e. Each mailed notice required by section B shall contain the following statement: “Notice to mortgagee, lien holder, vendor, or seller: The Falls City Zoning and Development Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser.”
4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:

- a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - b. Published notice is deemed given on the date it is published.
5. Notice for actions that rezone property as defined by ORS 227.186(9)
- a. Public notices for Type IV actions that “rezone property” as defined by ORS 227.186(9), shall be approved in advance by the City Council and shall be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone, at least 20 days, but not more than 40 days, before the date of the first public hearing.

The notice shall:

Include the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the top of the face page of the notice: “This is to notify you that the City of Falls City has proposed a land use regulation that will affect the permissible uses of your land.”

Include in the body of the notice;

On (date of public hearing), the City of Falls City will hold a public hearing regarding the adoption of Ordinance Number _____. The City of Falls City has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number _____ is available for inspection at the Falls City Hall located at 290 Mill Street. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the Falls City City Recorder 503-787-_____.

- 3. If notice is pursuant to a requirement of periodic review, the body of the notice shall include in lieu of 2 above:

As a result of an order of the Land Conservation and Development Commission, has proposed Ordinance Number _____. The City of Falls City has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number _____ will become effective on _____.

Ordinance Number _____ is available for inspection at the Falls City City Hall located at 290 Mill Street. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the Falls City City Recorder 503-787-_____.

C. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
 - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
 - i. Regulate the course, sequence, and decorum of the hearing;
 - ii. Direct procedural requirements or similar matters; and
 - iii. Impose reasonable time limits for oral presentations.
 - b. No person shall address the Commission or the Council without:
 - i. Receiving recognition from the presiding officer; and
 - ii. Stating their full name and residence address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:
 - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
 - b. The City Recorder's report and other applicable staff reports shall be presented;
 - c. The public shall be invited to testify;
 - d. The public hearing may be continued to allow additional testimony or it may be closed; and
 - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

- D. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- E. Decision-Making Consideration. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
 2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
 3. Any applicable intergovernmental agreements; and
 4. Any applicable comprehensive plan policies and provisions of this Ordinance that implement the Comprehensive Plan. Compliance with Section 3.206 shall be required for Comprehensive Plan Amendments, and Land Use Zone Map and Text Amendments.
- F. Approval Process and Authority.
1. The Planning Commission shall:
 - a. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
 - b. Within 10 business days of determining their recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the City.
 2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Recorder before the Council public hearing on the proposal. The City Recorder shall send a copy to each Council member and place a copy in the record;
 3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 14 days of its first public hearing on the proposed change, the City Recorder shall:
 - a. Report the failure together with the proposed change to the City Council; and
 - b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.

4. The City Council shall:
 - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application; and
 - b. Consider the recommendation of the Planning Commission; however, it is not bound by the Commission's recommendation; and
 - c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

G. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by the majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

H. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within 5 business days after the City Council decision is filed with the City Recorder. The City shall also provide notice to all persons as required by other applicable laws.

I. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

J. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the City Recorder and other City staff to the hearings body regarding the application;

- c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
- d. The final ordinance;
- e. All correspondence; and
- f. A copy of the notices, which were given as required by this Section.

3.107 APPLICATIONS

A. Initiation of Applications:

- 1. Applications for approval under this Section may be initiated by:
 - a. Resolution of City Council;
 - b. Resolution of the Planning Commission;
 - c. The City Recorder;
 - d. A record owner of property (person(s) whose name is on the most recently-recorded deed), or contract purchaser with written permission from the record owner.
- 2. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

B. Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.

- 1. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the City Recorder.
- 2. When proceedings are consolidated:
 - a. The notice shall identify each application to be decided;
 - b. The decision on a plan map amendment shall precede the decision on a proposed land use zone change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
 - c. Separate findings and decisions shall be made on each application.

- C. Check for Acceptance and Completeness. In reviewing an application for completeness, the following procedure shall be used:
1. Acceptance. When an application is received by the City, the City Recorder shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:
 - a. The required form;
 - b. The required fee;
 - c. The signature of the applicant on the required form, and signed written authorization of the property owner of record if the applicant is not the owner.

3.108 CITY RECORDER'S DUTIES

- A. The City Recorder, or their designee, shall:
- B. Prepare application forms based on the criteria and standards in applicable state law, the City's Comprehensive Plan, and implementing ordinance provisions;
- C. Accept all development applications, which comply with this Section;
- D. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provide findings of conformance and/or nonconformance with the criteria. The staff report should also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;
- E. Prepare a notice of the proposal decision:
 1. In the case of an application subject to a Type I or II review process, the City Recorder or their designee shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
 2. In the case of an application subject to a hearing (Type III or IV process), the City Recorder shall make the staff report available to the public at least 7 days prior to the scheduled hearing date, and make the case file materials available when notice of the hearing is mailed, as provided by this Section.
- E. Administer the hearings process;
- F. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;

- G. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and
- H. Administer the appeals and review process.

3.109 AMENDED DECISION PROCESS.

- A. The purpose of an amended decision process is to allow the City Recorder to correct typographical errors, rectify inadvertent omissions and/or make other minor changes which do not materially alter the decision.
- B. The City Recorder may issue an amended decision after the notice of final land decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 12 business days after the original decision would have become final. A new 12-day appeal period shall begin on the day the amended decision is issued.
- C. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

3.110 RE-SUBMITTAL OF APPLICATION FOLLOWING DENIAL

An application which has been denied, or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals (LUBA), the Land Conservation and Development Commission (LCDC) or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final City action is made denying the application, unless, there is substantial change in the facts or a change in City policy which would change the outcome, as determined by the City Recorder.

3.111 SUPPLEMENTAL APPLICATION FOR REMAINING PERMITTED USES FOLLOWING DENIAL OF INITIAL APPLICATION

- A. A person whose application for a permit is denied by the City may submit to the City a supplemental application for any or all other uses allowed under the City’s Comprehensive Plan and Zoning and Development Ordinance in the zone that was the subject of the denied application.
- B. The City shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 shall apply to a supplemental application submitted under this section.

- C. A supplemental application submitted under this section shall include a request for any rezoning or variance that may be required to issue a permit under the City's Comprehensive Plan and Zoning and Development Ordinance.
- D. The City shall adopt specific findings describing the reasons for approving or denying:
 - 1. A use for which approval is sought under this section; and
 - 2. A rezoning or variance requested in the application.

3.112 FEES

- A. Purpose. Fees are for the purpose of defraying administrative costs.
- B. General Provisions.
 - 1. A deposit fee shall be payable at the time of application and shall be set forth by resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.
 - 2. The City Council may reduce or waive fees upon showing of just cause to do so.
 - 3. Fees are not refundable unless the application is withdrawn prior to the notification of the hearing.

3.200 APPLICATION SUBMITTAL REQUIREMENTS AND REVIEW PROCESS

3.201 CONDITIONAL USE PERMITS

- A. Process: Conditional use applications shall be reviewed in accordance with the hearing process set forth in Section 3.105.
- B. Submittal Requirements: An application for a Conditional Use Permit shall be filed with the City Administrator Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this section.
- C. Criteria for Approval: Approval or denial of the application shall be based upon the following criteria:
 - 1. The use is listed as a conditional use in the underlying zone.
 - 2. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, location of improvements and natural features.
 - 3. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.
 - 4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying zone.
 - 5. The proposal is compatible with applicable goals and policies of the Comprehensive Plan.
- D. An approved conditional use permit shall lapse and become void unless substantial improvements related to such use are commenced within one year of the date that the approval is granted.
- E. Continued compliance with terms and conditions of an approved conditional use permit, and adherence to the approved plans, shall be required. Any departure from the terms and conditions of approval shall constitute a violation of this Ordinance. The City Recorder or his/her designee may conduct periodic reviews of compliance and, upon sufficient complaints or other evidence of violations, may call up the permit for review by the Planning Commission and Council. After public notice and public hearing as provided in Section 3.105, the City may alter the terms and conditions of the permit, up to and including revocation of the permit. After public notice and public hearing, the holders of a conditional use permit may request a modification of terms and conditions.

3.202 VARIANCE APPLICATIONS

- A. Purpose: The development standards in this Ordinance protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements.

The purpose of this Section is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met.

- B. Applicability: Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Ordinance, except when one or more of the following applies:
1. The proposed variance would allow a use which is not permitted in the zone;
 2. Another procedure and/or criteria is specified in the Ordinance for modifying or waiving the particular requirement or standard; or
 3. Modification of the requirement or standard is prohibited within the district.
- C. Process: Variance applications shall be heard in accordance with the public hearing process set forth in Subsection 3.105.
- D. Submittal Requirements: An application for a variance shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application, including findings that address relevant criteria and the review criteria listed in Subsection 3.202(E), below.
- E. Variance Criteria: The Planning Commission may allow a variance from a requirement or standard of this Ordinance after a public hearing conducted in accordance with the review procedures, provided that the applicant provides evidence that the following circumstances substantially exist. Approval shall not be granted unless each of these criteria is met.
1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this Ordinance, topography, or other circumstances substantially exist.
 2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or zone.

3. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.
 4. That the special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Ordinance by the applicant.
 5. The variance requested is the minimum variance which would alleviate the hardship.
 6. Strict adherence to the requirement or standard is unnecessary because the proposed variance will reasonably satisfy both of the following objectives:
 - a. Granting the variance will not create significant adverse affects to the appearance, function or safety of the use or uses on the subject property; and
 - b. Granting the variance will not impose limitations on other properties in the area, including uses which would be allowed on vacant or underdeveloped sites.
 7. Approval of the application does not conflict with policies and objectives of the Comprehensive Plan.
- F. An approved variance shall lapse and become void unless substantial improvements related to the variance are commenced within six months of the date that the approval is granted.

3.203 SITE DESIGN REVIEW

- A. Purpose: The Site Design Review Process is intended to:
1. Guide future growth and development in accordance with the Comprehensive Plan and other related Ordinances;
 2. Provide an efficient process and framework to review development proposals;
 3. Ensure safe, functional, energy-efficient developments which are compatible with the natural and built environment; and
 4. Resolve potential conflicts that may arise between proposed developments and adjacent uses.
 5. The site design review provisions are not intended to preclude uses that are permitted in underlying zones.

- B. Process: Site Design Review applications shall be reviewed in accordance with the public process set forth in Subsection 3.105, except for Type I applications, which shall be processed according to the procedures set forth in Subsection 3.104.
- C. Applicability of Provisions. Site Design Review shall be required for all new developments and modifications of existing developments, except that regular maintenance, repair and replacement of materials (e.g., roof, siding awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt.
1. Site Design Review shall be applicable to all new developments and major expansion or remodel (25 percent or more increase in total square footage) of existing developments except:
 - a. Single-family detached dwellings;
 - b. A duplex or triplex.
 - c. Structures under 120 square feet that do not require a building permit.
 2. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Ordinance.
- D. Submittal Requirements: An application for site design review shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Section. The following information shall be submitted as part of a complete application for Site Design Review included on scaled plans:
- E. Site Analysis
1. Property description (Assessor's Map No. and Tax Lot), property dimensions and, on sites with more than a 10 percent slope, topographic information.
 2. North arrow, scale, names and addresses of the property owner, developer and the person preparing the drawing.
 3. Existing structures, roadway access and utilities.
 4. Fire flow information.
 5. Vehicular and pedestrian circulation patterns, parking, loading and service areas.
 6. Existing and proposed streets, bikeways, and pedestrian facilities within 300 feet.
 7. Resource areas, including marsh and wetland areas, streams, and wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection.

F. Site Plan

1. Proposed landscape plan, including plant materials, planting plan and square footage, consistent with the requirements of the underlying zone.
2. Type and location of lighting.
3. Proposed on-premise signs, fences, or other fabricated barriers, together with their heights and setbacks.
4. Location of garbage containers and outdoor storage areas.
5. Location of utilities.
6. All proposed structures including finished floor elevations, setbacks, exterior elevations, and exterior finishing.
7. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Invert elevations may be required for all underground transmission lines;
8. A traffic impact analysis if requested by the City Recorder.

G. Evaluation of Site Plan: The review of a Site Plan shall be based upon consideration of the following criteria:

1. Conformance with the general development standards contained in this Ordinance including:
 - a. Streets
 - b. Off-street parking
 - c. Public facilities, including storm drainage, and utility lines
 - d. Signs
 - e. Site and landscaping design
2. Characteristics of adjoining and surrounding uses;
3. Drainage and erosion control needs;
4. Public health factors;
5. Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities;
6. Provision for adequate noise and/or visual buffering from non-compatible uses;

7. Retention of existing natural features on site; and
 8. Problems that may arise due to development within potential hazard areas.
- H. Access: As part of the design review process, the City may impose the following conditions on a new or expanding development:
1. Limit or prohibit access to local streets which principally serve residential uses.
 2. Require a traffic impact analysis.
 3. Require the dedication of additional right-of-way and/or street improvements where necessary to meet City street standards.
- I. Expiration of Approval.
1. Site Design Review approval shall be effective for a period of one year from the date of approval. If substantial construction of the approved plan has not begun within the one-year period, the approval shall expire.
 2. Site Design Review approval shall be voided immediately if construction on the site is a departure from the approved plan.
 3. The City Recorder shall upon written request by the applicant and payment of the required fee, grant an extension of the approval for a period not to exceed six months provided that:
 - a. No changes are made to the approved Site Design Plan;
 - b. The applicant can show intent to initiate construction on the site within the six-month extension period; and
 - c. There have been no changes in existing conditions, facts, or applicable policies or ordinance provisions on which the original approval was based.
- J. Financial Assurances: All public utility improvements required by this Ordinance or as conditions of approval shall be completed prior to the issuance of an occupancy permit, unless there exists a performance guarantee acceptable to the City Attorney, as provided for in Section 2.208.04.

3.204 FLOOD PLAIN DEVELOPMENT PERMIT

- A. Process: Applications for a Flood Plain Development Permit, or for an exception to the provisions of Section 2.205, shall be heard in accordance with the Type I-B process set forth in Section 3.104.

- B. Submittal Requirements and Review Criteria: Submittal Requirements and review criteria shall be as set forth in Section 2.205.06.

3.205 NONCONFORMING USES

- A. Purpose: Within the zones established by this Ordinance and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this Ordinance but which would be prohibited or restricted under the terms of this Ordinance. The general purpose of this Section is to encourage the conversion of such nonconforming uses and structures to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified. Nothing contained in this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a building permit was issued and actual construction commenced prior to the date of adoption of this Ordinance or any amendment thereto. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section.
- B. Process: Applications for an alteration or expansion of a nonconforming use or structure shall be reviewed in accordance with the public hearing process set forth in Section 3.105.
- C. Submittal Requirements: An application for an alteration or expansion of a Nonconforming Use shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Section. The applicant shall submit a detailed description of the proposed alteration to the use. Where exterior structural alterations are proposed, scaled plans shall be submitted that provide the information required for Site Design Review, as set forth in Section 3.203 (D) through (F).
- D. Discontinuation of Use: If a nonconforming use is discontinued for a period of more than one (1) year, the use shall not be resumed unless the new or resumed use conforms with the requirements of this Ordinance.
- E. Alterations Required by Law: The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure; or to bring the use or structure into closer compliance with this Ordinance shall be permitted, subject to all other laws, ordinances and regulations.
- F. Maintenance: Normal maintenance of a nonconforming use is permitted provided there are not major structural alterations as determined by the County Building Official.
- G. Alteration, Restoration, or Replacement
 - 1. The City Recorder shall authorize restoration or replacement of a nonconforming use when restoration or replacement is made necessary by fire, casualty, or natural disaster and does not exceed 50 percent of the value of the original

structure, provided the physical restoration or replacement is lawfully commenced within one year of the damage or destruction.

2. The Planning Commission, subject to the quasi-judicial review procedure, may extend the restoration or replacement period for an additional 6 months. In no case shall the total restoration or replacement period exceed 18 months. Requests for extension of restoration or replacement period shall be submitted in writing 30 days prior to the expiration date of the restoration or replacement period.
3. The alteration of a nonconforming use may be authorized by the Planning Commission, subject to the quasi-judicial review procedure, provided that the applicant demonstrates that the proposal satisfies the following criteria:
 - a. The alteration of structures would result in a reduction in nonconformity of the use, or would have no greater adverse impact on the neighborhood;
 - b. A change in use to another nonconforming use may be permitted if it is of the same or less intensity of use;
 - c. The alteration of a nonconforming single-family residence that does not involve a change in use is authorized without Planning Commission approval.

H. Conditions of Approval: In approving the alteration, restoration, or replacement of a nonconforming use, the Planning Commission may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out.

3.206 COMPREHENSIVE PLAN AMENDMENTS

- A. Initiation: Applications for quasi-judicial comprehensive plan amendments requests shall be initiated through the process set forth in Section 3.105(A). The City Council or Planning Commission may initiate a legislative amendment of the text of the Comprehensive Plan, or the Comprehensive Plan Map, through the procedures set forth in Section 3.106.
- B. Process: Quasi-judicial Comprehensive Plan Amendments shall be heard in accordance with the public hearing process set forth in Section 3.105.
- C. Submittal requirements: Applications for a Comprehensive Plan Amendment shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application, including findings that address relevant criteria and shall address the criteria set forth in subsection 3.206(D), below.
- D. Criteria for Approval: Approval or denial of the application shall be based upon the following criteria:

1. The proposed amendment is consistent with applicable goals and policies of the Comprehensive Plan.
 2. The proposed amendment is not in conflict with the Statewide Planning Goals, applicable Oregon Administrative Rules, or State statutes.
 3. There is a public need for the proposed amendment.
 4. The property included in a Map Amendment is physically suited for the uses permitted by the proposed comprehensive plan designation, considering the size, shape, topography and vegetation of the subject site.
 5. The property Included in a Map Amendment is presently serviced, or will be serviced concurrently with development, with adequate public facilities and services and transportation networks to support the uses permitted by the proposed comprehensive plan designation.
- E. Effective Date of Approval: An amendment to the Comprehensive Plan shall become effective on the effective date of the ordinance adopted by City Council approving the amendment.

3.207 ZONE CHANGE REQUESTS

- A. Initiation: Applications for quasi-judicial zone change requests shall be initiated through the process set forth in Section 3.105(A). The City Council or Planning Commission may initiate a legislative amendment of the text of this Ordinance, or the Zoning Map, through the procedures set forth in Section 3.106.
- B. Process: Zone change requests shall be heard in accordance with the public hearing process set forth in Section 3.105.
- C. Submittal Requirements: An application for a zone change shall be made on an application form available from the City Administrator Recorder and shall address the review criteria listed Subsection 3.207(D), below.
- D. Criteria for Approval: Zone change proposals shall be approved if the applicant provides evidence substantiating the following:
 1. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use designation.
 2. Adequate public facilities, services and transportation networks are in place or are planned to be provided concurrently with the development of the property.
 3. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

4. Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance.
5. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.
6. The following additional criteria shall be used to review all non-residential changes:
 - a. The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next five (5) years, or the location of the appropriately zoned land is not physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use.
 - b. The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

3.208 LOT LINE ADJUSTMENTS

- A. Process: Lot line adjustments shall be processed in accordance with the procedures for a Type I-A ministerial review as set forth in Subsections 3.102(A) and 3.103.
- B. Submittal Requirements and Review Criteria: An application for a lot line adjustment must be made upon a form provided by the City staff and contain the information required therein.
- C. Criteria for Approval: Approval or denial of the application shall be based on the following criteria:
 1. The number of lots or parcels resulting from the adjustment is the same or less than the number of lots or parcels existing prior to the adjustment.
 2. Following the lot line adjustment, all lots must comply with lot size and dimensional standards of the applicable land use or zoning district. For nonconforming lots, the adjustment shall not increase the degree of nonconformity of the subject property or surrounding properties.
 3. If there are existing structures on the parcels, the lot line adjustment may not result in a setback violation.
 4. All lots or parcels having access to a public or private street before the adjustment must retain access after the adjustment.

3.209 PARTITIONS

3.209.01 SCOPE

All partitions shall be subject to the provisions of this chapter. For the purposes of this chapter, "road" means a public or private way that is created to provide ingress or egress for two (2) or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes.

3.209.02 PRELIMINARY SERIES PARTITION PLAT

- A. A landowner may partition a parent parcel into 3 parcels or lots through the provisions of this chapter. A landowner proposing to further partition the parent parcel into a 4th or subsequent parcel or lot shall first obtain approval of a preliminary series partition plat if the remaining acreage in the parent parcel exceeds 3 times the minimum parcel or lot size.
- B. The application for a preliminary series partition plat shall contain a partition plan showing the boundaries, acreage and frontage of any future parcels or lots, the location and width of future road rights-of-way, and existing structures, driveways, wells, septic systems and drainageways on the subject parcel or lot.
- C. Approval of a preliminary series partition plat is granted by the Planning Commission based on findings that each parcel or lot in the plan will comply with the standards set forth in Section 3.209.03.
- D. The Planning Commission may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the proposed partitioning, or to otherwise ensure compliance with the purpose and provisions of this Ordinance. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to Section 2.208.04 or Section 3.210.11 to ensure compliance with a condition of approval.
- E. Land in an approved preliminary series partition plat may be partitioned pursuant to Sections 3.209.04 through 3.209.06 without further Planning Commission approval, provided the proposed partition does not deviate by more than 10 percent from approved parcel or lot size or dimensions. A plat modification, which exceeds this standard but otherwise substantially conforms to the approved preliminary series partition plat may be approved by the City Recorder, subject to notice requirements pursuant to Subsection 3.102(A)(2).

3.209.03 AREA OF APPLICATION

A partition is required for any land division, which creates two (2) or three (3) parcels in a calendar year. The parcels must satisfy the following requirements:

- A. Each parcel shall have a minimum of 20 feet of frontage on a Federal, State, County, City or public roadway except when the Planning Commission grants access via an easement of way as provided in Subsection 2.207.03(D).
- B. Each parcel shall satisfy the dimensional standards of the applicable zoning district, unless a variance from these standards is approved.

3.209.04 GENERAL PROVISIONS

- A. All partitions shall be reviewed to assure compliance with the standards of this Ordinance and the Comprehensive Plan.
- B. No parcel within an approved partition may be re-divided within the same calendar year in which it was recorded, except through the subdivision process.
- C. A master plan for development is required for any application, which leaves a portion of the subject property capable of further development.
- D. Partition approval shall expire after one year from the date of approval if no final plat has been recorded. Partition approval is valid in perpetuity upon recording of the final surveyed plat.

3.209.05 PROCESS FOR TENTATIVE PLAN REVIEW

Review process: Tentative plans for partitions shall be reviewed in accordance with the Type I-B review procedures in Section 3.104.

3.209.06 APPLICATION AND FEE

- A. Applications for partitions shall be submitted on forms available from the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application, which addresses the review criteria of this Section.
- B. Each application shall be accompanied by a tentative plan. The tentative plan shall show the general design of the proposed partition drawn to a scale of not less than one inch equals 50 feet nor more than one inch equals 200 feet, and contain at a minimum, the following supplemental information:
 - 1. General Information. The following general information shall be shown on the tentative plan:
 - a. Vicinity map identifying all streets, property lines, streams, and other pertinent data to locate the parcel.
 - b. North arrow and scale of drawing.

- c. Tax map and tax lot number or tax account of the subject property.
 - d. Dimensions and size in square feet or acres of the subject property and of all proposed parcels.
 2. Name and address of the owner of the property to be divided.
 3. Existing Conditions:
 - a. Location of all existing easements and their purpose within the property
 - b. Location of City utilities (water, wastewater system, storm drainage) within or adjacent to the property proposed for use to serve the development.
 - c. The location and direction of water courses, natural drainageways, swales, wetlands, or other significant natural features of the property.
 - d. Existing uses on the property, including location of existing structures on the property. It should be noted whether the existing structures are to be removed or to remain on the property.
 - e. Zoning.
 - f. Topographic information from contour maps or, if available, survey data.
 4. Proposed Plan:
 - a. Locations, approximate dimensions and area in square feet of all proposed parcels. All parcels shall be numbered consecutively.
 - b. Location, width and purpose of any proposed easements.
 5. Supplemental Information:
 - a. Proposed deed restrictions, if any, in outline form.

3.209.07 PROCESS FOR FINAL MAP APPROVAL

- A. Final Approval. Within 180 days of the final decision approving a tentative map, the applicant or applicant's agent shall submit 4 copies of a survey of the approved map to the City Recorder for review. The survey map shall be reviewed by the City staff for consistency with the approved tentative map. If the map is found to be consistent with the final decision, and if the conditions of approval have been satisfied, the City Recorder shall mark the surveyed map "Approved" and shall:
 - 1. Transmit one copy each of the approved map to the County Assessor, the County Surveyor for recording, and the applicant, and
 - 2. Retain one copy for City files.
- B. Within one year of the final decision approving a tentative plan, a final survey of the approved plat shall be recorded. If the final survey is not submitted within one year, the preliminary approval will lapse. Final plats shall conform with all applicable requirements of Section 3.210.08.
- C. Recording of Approved Map Required: No building permit shall be issued, or parcel sold, transferred or assigned, until the final approved map has been recorded with the County Surveyor.
- D. Improvements/Bonding: Prior to issuance of a building permit, all improvements required by the conditions of approval and by this Ordinance shall be constructed or the construction shall be guaranteed by a performance bond or other instrument listed under Section 2.208.04 or Section 3.210.11 that is acceptable to the City Council.

3.210 SUBDIVISIONS

3.210.01 AREA OF APPLICATION

- A. Subdivisions are all divisions of property creating 4 or more lots in the same calendar year. All subdivisions shall be subject to the provisions of this chapter
- B. Replatting. A replat of a recorded subdivision plat shall be reviewed as a new request for a subdivision and shall be subject to all provisions of this Section. When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified.

3.210.02 GENERAL PROVISIONS

- A. All partitions and subdivisions shall be consistent with the provisions of this Ordinance and the Comprehensive Plan.
- B. Approval of a tentative plan or map is valid for one year from the date of approval of the application. During the one-year period, the final plat or map shall be recorded. If a final plat or map is not recorded within this period the approval shall lapse unless a time extension is approved by the Planning Commission subject to the following provisions:
 - 1. A time extension may be granted by the Planning Commission for one year at a time. The total time extension period since the date of approval shall not exceed five (5) years.
 - 2. A time extension must be requested in writing within 30 days prior to the expiration of the preliminary approval.
 - 3. Time extension requests shall be heard by the Planning Commission in accordance with the procedures set forth in Subsection 3.102(C). Such requests may only be approved if the applicant demonstrates:
 - a. The subdivision or partition is consistent with existing requirements of this Ordinance and the Comprehensive Plan;
 - b. There exists good cause for the failure to record the final map or final plat; and
 - c. There is reasonable expectancy that the final map or final plat will be recorded within the one-year extension period.
- C. A master plan for development shall be required for any application that leaves a portion of the subject property capable of redevelopment. Such a master plan shall present sufficient data to demonstrate that the remainder of the property can be reasonably developed in the future, In accordance with the provisions of this Ordinance. A master plan shall not be construed as granting preliminary approval to future phases of a development.
- D. Subdivision and major partition proposals shall be designed to conform with the development requirements and standards of Section 2.207.
- E. Subdivisions of land in association with a Planned Unit Development which is approved in accordance with Section 3.211 of this Ordinance may result in the requirements of Section 3.210 being waived, altered or otherwise changed, as determined by action of the Planning Commission.

3.210.03 REVIEW PROCEDURES

Applications for preliminary approval of major partitions and subdivisions shall be reviewed by the Planning Commission pursuant to the provisions in Subsection 3.102(C).

3.210.04 LETTER OF INTENT TO SUBDIVIDE

The applicant shall inform City Staff in writing of the intention to apply for a subdivision, and request a pre-application conference. A sketch plan and narrative must accompany the letter of intention with sufficient detail to outline the development plan.

3.210.05 PRE-APPLICATION CONFERENCE

City Staff shall schedule a pre-application conference with the applicant within 21 days following receipt of the letter of intention. Representatives of public and private agencies may attend or may submit such information and recommendations that will assist the applicant in preparing the tentative subdivision plat. The applicant or City Staff may request additional meetings.

3.210.06 SUBMITTAL REQUIREMENTS FOR TENTATIVE SUBDIVISION PLANS

- A. Applications for tentative subdivision plan approval shall be made on forms available from City Staff.
- B. A complete application for a subdivision shall include 15 copies of a tentative plan that conforms to map standards established by the Polk County Surveyor and ORS Chapter 92. A preliminary plat shall illustrate:
 - 1. Proposed name of subdivision. No plat of a subdivision shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition" or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing the name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the plat of the same name last filed.
 - 2. Date, north point and scale of drawing.
 - 3. Appropriate identification clearly stating the plan is a tentative plan.
 - 4. Location of the subdivision sufficient to define the location and boundaries of the proposed tract.
 - 5. Names, phone numbers and addresses of the owner, subdivider, engineer, surveyor and all representatives responsible for the plan.

6. The location, width, elevation, grades and names of existing and proposed streets in or adjacent to the proposed subdivision.
7. The location and direction of water courses, and the location of all areas subject to the base flood and within the 100 year flood plain.
8. Natural features such as rock outcroppings, marshes, wooded areas, and isolated preservable trees.
9. Existing uses of the property, including location of existing structures to remain on the property after platting.
10. The location, width, names, approximate grades, and radii of curves of streets. The relationship of streets to any existing streets and to any projected streets as shown on the comprehensive development plan of the city, or as may be suggested by the Planning Commission in order to assure adequate traffic circulation.
11. The location, width and purpose of easements.
12. The location and approximate dimensions of lots and the proposed lot and block numbers.
13. Sites, if any, allocated for purposes other than single-family dwellings.
14. Zoning on and adjacent to the subject property.
15. Ground contour maps.
16. Site area and approximate areas of individual lots.
17. Location of sites to be offered for public dedication.
18. A vicinity map showing the boundary of the parent parcel, intersecting property lines, adjacent streets, sewers, water lines and ownerships abutting the boundary of the parent parcel as found in the County Assessor's records.
19. Location of proposed open space areas.
20. The location of at least one temporary benchmark within the boundaries of the proposed subdivision.
21. Proposed phases or additions for the completion of public improvements and the filing of final plats.
22. The location of all utilities including water, wastewater (sewer) system, telephone, natural gas and cable television.

23. The proposed plan for stormwater drainage including any off-site improvements.
 24. The location of all common or public facilities.
- C. Explanatory Information With Tentative Plan: An application shall further include a narrative that provides the following information:
1. A phased development schedule.
 2. A copy of tentative covenants, conditions and restrictions, if any, proposed by the applicant.
 3. A schedule for construction of all improvements.
 4. Description of the impact of the proposed subdivision on water, sewer, fire protection, law enforcement, schools, hospitals, solid waste disposal and other services
- D. The applicant shall submit two (2) copies of the tentative plat and the appropriate fee to the County Surveyor.

3.210.07 PRELIMINARY APPROVAL

- A. Notice of Pending Action. After receiving a complete application, City Staff shall schedule a public hearing and issue public notice for the purpose of reviewing the subdivision's preliminary plat. City Staff shall coordinate review of the preliminary plat with all affected city, county, state and federal agencies and all affected special districts.
- B. Approval of Preliminary Plat. The Planning Commission shall review all preliminary plat documents and conduct a public hearing for the purpose of reviewing the proposed subdivision. The Planning Commission shall consider the provisions of the Zoning and Development Ordinance, and either approve, or approve with modifications or conditions, or deny the proposal. The decision shall be based upon findings justifying the decision. Approval of the tentative plat shall be a final decision for the purpose of appeal on the issue of compliance with Section 2.207.
- C. The Planning Commission may require that all public improvements be installed and dedicated prior to final plat approval or a bond or performance guarantee shall be required ensuring completion pursuant to Section 3.210.11 or Section 2.208.04. The amount of the bond shall be established by the City Engineer. The bond shall be submitted by the applicant prior to final plat approval.
- D. Effective Period. Unless a phasing schedule is approved by the Planning Commission, a tentative plan shall be effective for a period of 12 months from the date of decision, after which time the approval automatically expires.
- E. Extension of Effective Period.

1. The City Recorder may grant one extension of 6 months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the City Recorder prior to expiration of the effective period and shall provide evidence that the plat and documents will be completed within 18 months of the tentative plat approval.
2. The Planning Commission may grant one extension of 12 months for submitting the final plat and documents. The applicant shall submit the request for extension in writing to the City Recorder prior to the expiration date of the effective period. The applicant shall submit evidence that the plat and documents will be completed within 24 months of the tentative plat approval.

3.210.08 SUBMITTAL OF FINAL SUBDIVISION PLAT

A. Submission of Final Plat: The applicant shall submit two sets of prints and all accompanying documents to the City Recorder prior to expiration of the tentative subdivision plan. The original of the final plat shall be filed with the County Surveyor. The plat and documents shall contain all modifications required as conditions of approval. The final plat submittal shall include the following items:

1. A Final Plat map that complies with map standards established by the County Surveyor and ORS Chapter 92. Such plat shall illustrate or include:
 - a. The lines and names of all streets or other public ways, parks, playgrounds, and the land to be dedicated for any purpose, public or private, as distinguished from parcels or lots intended for sale.
 - b. The length and bearings of all straight lines, curves, radii, arcs and the semi-tangents of all circles.
 - c. All dimensions along the lot lines of each lot, in feet decimals of a foot to the nearest hundredth, with the true bearings and any other data necessary for the location of any lot line in the field.
 - d. Suitable primary control points, approved by the County Surveyor, and description and ties to these control points, to which all dimensions, angles, bearings and similar data given on the final plat shall be referred.
 - e. The location of all permanent monuments.
 - f. The names of all subdivisions immediately adjacent to the subdivision.
 - g. The boundary of the divided tract, with the bearings, curves and distances marked, as determined by a field survey made by a registered engineer or a licensed land surveyor of the State of Oregon, and to close with an error of not more than one foot in four thousand feet.

- h. The date, true north point, and scale of the drawing.
 - i. All existing and proposed easement lines. The description of each easement shall include the purpose, width, length and bearing, and sufficient ties to locate the easement with respect to the subdivision lines. If an easement is not definitely located, a statement of the easements shall be given. If the easement has been recorded, the recording reference shall be listed.
 - j. Lot numbers and block numbers.
 - k. The following certificates, which may be combined where appropriate:
 - i. A certificate signed and acknowledged by all parties having any recorded title or interest in the land (except lienholders), consenting to the preparation and recording of the final plat.
 - ii. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final plat intended for public use, except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.
 - iii. A certificate with the seal of the engineer or the surveyor responsible for the survey and final map.
 - iv. Certificates for signatures of approval by the Chairman of the Planning Commission, City Engineer, Assessor, Tax Collector, County Surveyor and the City Council.
 - v. Other certifications, deed restrictions, or covenants as now, or hereafter, may be required by law.
 - 2. A copy of any final covenants, conditions, and restrictions applicable to the subdivision, to be recorded with the final plat.
 - 3. Documents dedicating all roads, pedestrian ways, drainage channels, easements, and other public rights-of-way.
 - 4. The applicant shall pay all engineering review fees.
- B. Supplementary Information With Final Plat: The following data shall accompany the final plat:
- 1. A title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interests in the property.

2. Sheets and drawings showing the following:
 - a. Traverse data, including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 - b. The computations of all distances, angles and courses shown on the final map.
 - c. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing.
3. A copy of any deed restrictions applicable to the subdivision.
4. A copy of any dedication requiring separate documents.
5. Written proof that all taxes and assessments on the tract are paid which have become a lien on the tract.

3.210.09 TECHNICAL REVIEW OF FINAL PLAT

The City Recorder, City Engineer, and County Surveyor shall concurrently review the final plat for conformity with the approved tentative plat and State law.

- A. Upon receipt of the final plat and accompanying data, the City Engineer shall review the final plat and documents to determine that the plat conforms with the approved tentative plat, and that there has been compliance with the provisions of this Ordinance.
- B. If the City Recorder, City Engineer, or County Surveyor determines that the final plat and documents do not conform to the approved tentative plan and State law, the applicant shall be afforded the opportunity to make corrections. The corrections shall be completed within 3 months following expiration of the tentative plat approval.
- C. Minor changes from the tentative plan may be authorized by the City Recorder provided that such changes are required by engineering or other circumstances unforeseen at the time the tentative plat was approved. All changes must be consistent with the provisions of this Ordinance. If other revisions are made to the subdivision plan, and the City Recorder finds that such revisions differ significantly from the approved tentative plat, the final plat shall be denied.
- D. The City Engineer shall examine the plat for compliance with requirements for accuracy and completeness. The city shall collect such fees as are provided by this Ordinance. The City Engineer may make checks in the field to verify that the plat is sufficiently correct on the ground, and he may enter the property for this purpose. If the City Engineer determines that there has not been full conformity, the City Engineer shall advise the subdivider of the changes or additions that must be made and afford the subdivider the opportunity to make such changes.

- E. If the City Engineer determines that full conformity has been made, the City Engineer shall so certify.

3.210.10 AGREEMENT FOR IMPROVEMENTS

Before Planning Commission approval is certified on the final plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision, or execute and file with the City Council an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed. The agreement shall provide that if the work is not completed within the specified period, the City may complete the work and recover the full cost and expense thereof from the subdivider. The agreement may provide for the construction of the improvements in units and for an extension of time under specified conditions.

3.210.11 REQUIREMENT OF BOND

- A. The subdivider may be required to file with the city an agreement for improvement, as required in Section 3.210.10, one of the following in order to assure his full and faithful performance thereof:
 - 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.
 - 2. File with the City a copy of instructions to a qualified escrow agent, providing that said agent shall withhold any amounts due, or to become due, to the subdivider in an amount sufficient to cover the cost of all public improvements to be completed or installed by the subdivider, in a form approved by the City Attorney.
 - 3. A deposit with the City of cash in an amount equal to the estimated cost of the improvements and repair.
- B. Such assurance of full and faithful performance shall be for a sum determined by the City Engineer as sufficient to cover the cost of the improvements and repairs, including related City expenses.
- C. If the subdivider fails to carry out provisions of the agreement, and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for the difference.

3.210.12 APPROVAL OF FINAL PLAT

If the City Engineer determines that the final plat conforms fully with the requirements of this Ordinance, he shall so advise the chairman of the Planning Commission. The chairman of the Planning Commission may then sign the plat without further action of the Planning Commission. In the absence of the chairman, his duties and powers with respect to action on final plats shall be vested in the vice-chairman. Approval of a final plat shall not constitute or effect an acceptance by the City of the dedication of any street or other easement or way shown on the plat.

3.211 PLANNED UNIT DEVELOPMENT (PUD)

3.211.01 PURPOSE

- A. The Planned Unit Development (PUD) is intended to add flexibility to the subdivision standards and procedures of this Ordinance to address topographic, economic or aesthetic factors encountered in the development process.
- B. It is the purpose of the PUD review process to allow new or innovative design and technology; to promote the most appropriate use of the land; to facilitate adequate and economical provisions for roads and public facilities; and to preserve the natural and scenic features of a site.
- C. Design Standards. A PUD is a specialized form of subdivision. A proposed PUD shall therefore conform to all subdivision and land partition standards of this section, except that certain standards may be varied as provided by this Section.
- D. The PUD review process allows a mixture of densities between zoning districts when more than one district is included in the development.

3.211.02 AREA OF APPLICATION

Planned Unit Developments may be established in the R zone or the CR zone on sites which contain at least three (3) acres of land and which are otherwise suitable for development consistent with the purposes of this section.

3.211.03 APPLICANT FOR PLANNED UNIT DEVELOPMENT PROJECTS

- A. Planned Unit Development project may be applied for by:
 - 1. The owner of all the property involved, if under one ownership, or;
 - 2. Jointly by all owners of the property in the area proposed for the Planned Unit Development project, if there is more than one owner.

3.211.04 USES PERMITTED

In a Planned Unit Development the following uses are permitted:

- A. In addition to permitted uses and uses allowed by conditional use permit in the underlying zone, commercial uses may be allowed in a residential PUD, subject to approval of a conditional use permit. A conditional use permit for a commercial use in an approved PUD shall be approved by the Planning Commission.
- B. In addition to satisfying the conditional use permit requirements of this Ordinance, an application for a conditional use permit in a PUD shall demonstrate that:
 - 1. The use is primarily for the service and convenience of residents within the PUD; and
 - 2. Such use shall not change or alter the predominate character of the PUD.
- C. Recreational facilities, including, but not limited to tennis courts, swimming pools and playgrounds.
- D. Open space uses.
- E. Schools, libraries, community halls, and churches.
- F. Offices, buildings and facilities required for the operation, administration and maintenance of the Planned Unit Development.

3.211.05 MODIFICATION OF USE AND STANDARDS

Within the boundaries of a Planned Unit Development the general development standards and use provisions of the underlying zone may be modified when consistent with the purposes and standards of this Section.

3.211.06 SITE ADAPTATION

To the maximum extent possible, the plan and design of the PUD shall assure that natural or unique features of the land and environment are preserved. Areas within the Restricted Development Overlay shall be preserved as public or private open space.

3.211.07 DENSITY OF DEVELOPMENT

The maximum number of residential dwellings permitted within a PUD shall be determined in accordance with the following steps:

- A. Determine Total Site Area: Total Site Area is the total area of the properties included within the boundaries of the PUD, measured in square feet. Total Site Area may be determined from survey data, Assessor's Map data, or other suitable calculations.
- B. Determine Net Site Area: Net Site Area is the area of the PUD minus the area devoted to public street rights-of-way and private street tracts or easements. Calculations of the actual street area may be provided by the applicant, or a figure of 20 percent of the Total Site Area may be used to approximate this street area.
- C. Calculate Base Density: Divide the Net Site Area by 10,890 square feet per dwelling unit to obtain the Base Density of development permitted for single-family detached, single-family attached, manufactured home, duplex and triplex dwelling units. If no apartment, townhouse, or condominium units are proposed within the development, the Base Density is the maximum density permitted within the development. If such multi-family units are proposed, continue to Step D.
- D. Substitution of Multi-Family Units: Multi-family dwellings may be substituted for Base Density at a rate of three (3) such units per unit of Base Density. Thus, if a Base Density of 20 units is calculated for a given site and six (6) multi-family dwellings are proposed, then 18 Base Density units remain and may be used for single-family, manufactured home, duplex or triplex units. Partial units of Base Density shall not be rounded up.

3.211.08 REQUIRED OPEN SPACE

- A. A minimum of 15 percent of the gross site area included in the PUD shall be devoted to open space. Such open space may include:
 - 1. Areas determined by the Planning Commission to be suited for park use which are dedicated to the City for public park use;
 - 2. Tracts of land owned and maintained by a homeowners association; and/or
 - 3. Areas of individual lots in which significant features, such as trees, stream corridors, wildlife habitat areas, etc., are preserved through conservation easements or other means deemed suitable by the City Attorney.
- B. The City may require the dedication of all or part of the required open space area for public park use when such land is reasonably suited for such purposes in consideration of such factors as size, shape, topography, geology, access, location and applicable Comprehensive Plan policies.

3.211.09 STRUCTURE SETBACK PROVISIONS

Yard setbacks for lots on the perimeter of the project shall be the same as that required for the underlying zoning district. All detached structures shall maintain a minimum side yard setback of three (3) feet or meet the Uniform Building Code requirement for side walls. A minimum

setback of 20 feet from a public street shall be required for any garage structure whose opening faces onto a public street.

3.211.10 LOT ACCESS

All lots within a PUD shall have a minimum of 20 feet of frontage onto a public or private street.

3.211.11 CIRCULATION

- A. Roads, pedestrian and bikeway paths shall be an integrated system designed to provide efficient, safe circulation to all uses. Developments should minimize the length of roadway.
- B. All public streets within a PUD shall be constructed to City standards. All streets located along the perimeter of the PUD, and all internal streets that continue through the development to adjoining properties shall be City streets designed to full City standards and dedicated to the City.
- C. Private Street Standards:
 - 1. Private streets shall be constructed to the same cross-sectional standards in terms of depth of paving, leveling course and base course, as established for local city streets.
 - 2. Minimum paved surface widths shall be as follows:
 - a. Two-way streets serving:
 - i. 1 to 3 dwellings: 20 feet
 - ii. 4 to 9 dwellings: 24 feet
 - iii. 10 or more dwellings: 28 feet
 - b. One-way streets: 20 feet
 - 3. All private streets of less than 28 feet in width shall be posted for no parking, except in specifically designed parking stalls. Parking on one side of the street may be permitted on 28-foot wide streets.
 - 4. Homeowners association by-laws, a maintenance agreement, or other mechanism shall be provided to assure that the proposed private streets are maintained. Such instruments shall be subject to review and approval by the City Attorney prior to the approval of the final subdivision plat or PUD plan.

- D. A pedestrian circulation system shall be provided to ensure adequate facilities for foot traffic to all parts of the PUD. The circulation system may include pathways or sidewalks and shall be subject to Planning Commission review.

3.211.12 UTILITIES

All utilities shall be installed in accordance with adopted City public works standards. Construction Plans shall be approved by the City Engineer prior to commencement of construction or the recording of the final plat.

3.211.13 HOMEOWNERS ASSOCIATION

- A. A non-profit incorporated homeowners association or an alternative acceptable to the City Attorney, shall be required for the operation and maintenance of common facilities, including open space, streets, drives, service and parking areas, and recreation areas. The following principles shall be observed in the formation of the homeowners association and shall be reviewed by the City Attorney:
1. A homeowners association shall be set up before approval of the final plat, or any portion thereof.
 2. Membership shall be mandatory for each home buyer and any successive buyer.
 3. The open space restrictions shall be in perpetuity.
 4. The homeowners association shall be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.
 5. Home owners shall pay their pro rata share of the cost or the assessment levied by the association shall become a lien on the property.
 6. The association shall be able to adjust the assessment to meet changes needed.
 7. No change in open space use or dissolution of homeowners association shall occur without a public hearing before the Planning Commission, pursuant to the notice and hearings procedures established in Chapter Three – Applications and Review Procedures.

3.211.14 APPLICATION

- A. Letter of Intention. The applicant shall inform the City Recorder in writing of the intention to apply for a PUD. A sketch plan and narrative must accompany the letter of intention with sufficient detail to outline the proposed PUD.
- B. Pre-Application Conference. The City Recorder shall schedule a pre-application conference with the applicant no more than 14 days following receipt of the letter of intention. Representative of public and private agencies may attend or may submit such

information and recommendations that will assist the applicant in preparing the development plan. The applicant or City Recorder may request additional meetings.

3.211.15 PRELIMINARY PLAN REVIEW PROCESS

- A. Applications for Planned Unit Developments shall be heard in accordance with the procedures set forth in Subsection 3.102(C).
- B. Approval Period:
 - 1. Preliminary approval of a single-phase PUD shall be effective for one year from the date of the signing of the decision notice. If, at the end of the one-year approval period, the final development plan, pursuant to Section 3.211.17, has not been filed with the City, the approval shall lapse.
 - 2. Planned Unit Developments proposing more than one development phase shall submit a proposed schedule for construction of individual phases. The total period for construction of all phases shall not exceed five years. Upon approval of the phasing plan by the Planning Commission, the approval period for any individual phase shall be valid for one year beyond the date specified in the phasing plan for the development of that phase. Failure to file a final development plan, pursuant to Section 3.211.17, for any individual phase, within the one-year approval period for that phase, shall cause the approval for that phase and all subsequent phases to lapse.
 - 3. Prior to the expiration of an approval period established in subsections 1 or 2 above, the developer may request that the Planning Commission grant an extension to the approval period. The Planning Commission may grant the extension, for a period of not more than one year at a time, upon finding that it is probable that the final development plan will be filed within this period and that circumstances have not significantly changed since the granting of the original approval. In the case of a phased PUD, the dates of subsequent phases may also be extended by a period of not more than one year at a time.

3.211.16 SUBMITTAL REQUIREMENTS

A complete application for a PUD shall include the following documentation:

- A. Ten copies of a PUD map that illustrates the following information:
 - 1. Existing topography, including identification of areas subject to slide, slump, erosion, or flooding hazards.
 - 2. The location of existing structures, vegetation and natural features.
 - 3. Proposed location of buildings, roads, driveways, and off-street parking.

4. Proposed open space areas, indicating use, ownership, and maintenance.
 5. Name of development, date, north point, and scale of drawing (not less than one (1) inch equals 20 feet nor more than one (1) inch equals 200 feet).
 6. Property boundaries and dimensions. Approximate dimensions and layout of lots, or units, and minimum lot size.
 7. Ground elevations shown by contour lines of not more than five foot vertical intervals. State source of information.
- B. A vicinity map showing the plan in relation to the surrounding community.
- C. A narrative that provides the following development details:
1. Names, address, and telephone numbers of the owners and developers as well as project planners, engineers, architects, landscape architects and/or surveyors.
 2. Proof of ownership and a legal description of all lands included within the PUD.
 3. A list of any lands adjacent to the development which are owned by the developer.
 4. A phasing schedule, if the PUD will be platted in phases.
 5. A description of the general nature of the development.
 6. Gross acreage in the proposed development, acreage devoted to public and private streets, acreage devoted to open space uses.
 7. Density calculations pursuant to Section 3.211.07
 8. Existing zoning of the property.
 9. Proposed uses of the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other open space uses.
 10. Existing uses of the property, including the location and use of all existing structures and their disposition.
- D. The following information shall be submitted as part of the application for a PUD:
1. General location of existing vegetation including description of types of vegetation.
 2. Location of watercourses on and abutting the property, areas subject to inundation of storm water overflow, and areas within the 100 year floodplain, if any.

3. The approximate location, and dimension (horizontal and vertical), of all commercial, common-wall, or multi-family structures proposed to be located on the site.
4. Statement of improvements to be made or installed, including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, common facilities, and the proposed timing of such installation.
5. Location of existing and proposed utilities on and abutting the tract, including sanitary sewer, storm sewer, and water. Statement of availability of utilities such as telephone, gas and electricity.

3.211.17 FINAL DEVELOPMENT PLAN

- A. Planned Unit Development proposals which include the subdivision of property, or which include condominium development, shall be subject to the process outlined in sections 3.210.09 through 3.210.12 for the preparation, review and approval of the final plat of the development. The final subdivision plat shall constitute the Final Development Plan for the PUD.
- B. Planned Unit Development proposals which do not require the preparation of a final plat shall follow the following procedures for the review of a Final Development Plan:
 1. Submittal requirements:
 - a. Evidence that all conditions of preliminary approval have been satisfied.
 - b. A preliminary title report, issued by a title insurance company, verifying ownership, together with a statement, signed by the owner of record and notarized, verifying that the owner consents to the proposed Final Development Plan and accompanying conditions of approval.
 - c. A copy of a survey, signed by a registered surveyor and recorded with the Polk County Surveyor, showing ties to existing monuments, all dimensions and bearings of property boundaries and easements for private streets, utilities, pedestrian and bicycle pathways, open space, etc.
 - d. Copies of deed restrictions, maintenance agreements, easements, etc. necessary to implement the conditions of approval.
 - e. Deeds for required public dedications.
 - f. Written proof that all taxes and assessments on the tract are paid and that all liens have been satisfied.

- g. A certificate signed by the City Engineer verifying that all improvements have been installed, or a bond and improvements guarantee submitted subject to Section 3.210.11 or Section 2.208.04.
 - h. A drawing to a scale of not less than one (1) inch equals 20 feet or more than one (1) inch equals 200 feet showing the location of all proposed dwelling units, open space, streets, pathways, common facilities, relationship to other phases and other features depicted upon the preliminary plan in relationship to the surveyed boundary of the project.
2. The Planning Commission shall determine whether the proposed Final Development Plan is in full compliance with the approved preliminary plan of the PUD and all conditions of approval. A public hearing shall not be required for this determination. Upon approval of the Final Development Plan proposal, the Planning Commission chairperson shall sign a notice of acceptance of the Final Development Plan.

3.211.18 POST APPROVAL REVIEW

- A. **Modification of Approved Plan.** A modification of an approved PUD plan which does not deviate by more than 10 percent from approved lot size or dimensions may be approved by the City Recorder. A plat modification which exceeds this standard but otherwise substantially conforms to the approved PUD plan may be approved by the City Recorder, subject to notice requirements pursuant to Subsection 3.102(A)(2). A modification which does not substantially conform to the approved PUD plan shall be reviewed pursuant to the procedures for initial PUD approval.
- B. **Deadline for Completion.** The applicant or successor in interest shall submit all final plat documents for subdivision of the PUD within 2 years of the date of approval, or within the guidelines of an approved phasing schedule.
- C. **Extension of Deadline.** An applicant may apply for an extension of the PUD deadline. The applicant must demonstrate that the deadline could not be met based upon reasons or conditions outside the applicant's control. The applicant must further demonstrate that substantial construction is reasonably likely to occur within the subsequent 2-year period or, if the deadline exceeded was established by an approved phasing schedule, must submit an updated phasing schedule for review and approval. An extension shall be subject to review by the Planning Commission. The Planning Commission may approve, amend, or deny the extension.
- D. **Monitoring Development.** The City Recorder shall review each approved PUD on an annual basis to determine whether the PUD is developing on schedule or in compliance with its approved Plan. If the City Recorder determines that the PUD is not developing on schedule or in conformance with its approved plan, the City Recorder shall notify the owner in writing that the owner must apply for a modification to the approved plan or for an extension to the PUD deadline within sixty days of the mailing of the notice in order to bring the PUD into compliance. If the owner fails to apply for a modification or extension

within that time period, or if the modification or extension is denied, the Planning Official may revoke the PUD.

3.113.19 VACATION OF PUD

- A. Application. The PUD owner may apply for vacation of all or part of the PUD. If a portion of the PUD has been subdivided, the application must demonstrate that the vacation will not adversely impact road, water, or sewage disposal improvements constructed for the land within the subdivided portion of the PUD.
- B. Planning Commission Review. The Planning Commission shall review and conduct a public hearing concerning the application for vacation of a PUD. Individual notice of the hearing shall be sent to all persons owning property within the approved PUD. The Planning Commission may approve, deny, or modify the request.

3.212 ANNEXATION

3.212.01 AUTHORITY OF CITY TO ANNEX

The boundary of the City may be extended by the annexation of territory not then within the City and which territory is within the City's Urban Growth Boundary and contiguous to the City or separated from it by a stream or right-of-way only.

3.212.02 ANNEXATION POLICIES

Annexation to the City of Falls City shall be considered in accordance with the following criteria:

- A. The site is contiguous to the city limits or is separated from it by a stream only, and the annexation creates a simple, contiguous city boundary. A road or strip of land shall not be annexed for the sole purpose of providing contiguity to land otherwise not contiguous to the city.
- B. The site is feasible for the orderly and economic provision of public facilities and services.
- C. The proposed use of the site is necessary to ensure availability of land for choices in the market places.
- D. The site does not inhibit encouragement of development within existing urban areas.

3.212.03 GENERAL REQUIREMENTS

General Requirements: Properties shall not be annexed to the City unless they are within the Urban Growth Boundary. An application for annexation may, however, be processed

concurrently with an application to amend the Urban Growth Boundary to include the subject property.

3.212.04 REVIEW PROCESS

Annexation applications shall be heard in accordance with the hearing process set forth in Section 3.106. Review criteria for all annexations shall be as specified in Section 3.212.05.

3.212.05 GENERAL ANNEXATION PROCEDURE

- A. Following submission of annexation proposal or initiation, the City Recorder shall set a date for hearing with the City. Notice shall be pursuant to the proposed method of annexation.
- B. The Planning Commission shall hear testimony and shall recommend approval or denial of the proposed annexation and submit such recommendation to the Council. The Planning Commission's decision shall, in a written form, state the rationale i.e., findings, used in justifying the decision, and that the decision is in conformance with the City's Comprehensive Plan. For all annexations the decision shall state how the proposal will:
 - 1. Promote an orderly, timely and economical transition of land into urbanized lands;
 - 2. Relate to areas with natural hazards;
 - 3. Protect open spaces and scenic views and areas;
 - 4. Affect the fish and wildlife in the proposed annexation;
 - 5. Provide for transportation needs in a safe, orderly and economic manner;
 - 6. Provide for an orderly and efficient arrangement of public services;
 - 7. Affect identified historical sites and structures and provide for the preservation of such sites and structures;
 - 8. Improve and enhance the economy of the City; and
 - 9. Provide quality, safe housing through a variety of housing types and price ranges.
- C. The City Recorder shall set a date for a public hearing with the Council upon receipt of the Planning Commission's recommendation. Notice shall be pursuant to the proposed method of annexation. After considering all testimony, the Council shall sustain or reverse the Planning Commission's recommendation. The Council shall, in a written form, state the rationale used in justifying the decision, and that the decision is in conformance with the City's Comprehensive Plan. The decision shall state how the proposed annexation will address the criteria stated in Subsection B.

3.212.06 ANNEXATION BY ELECTION

- A. The City Council, upon approval of the annexation proposal, has the authority to submit, except when not required under ORS 22.850 to 222.915, to dispense with submitting the proposal for annexation to the registered voters of the City.
- B. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose. The proposal for annexation may be voted upon by the voters of the City and of the territory simultaneously or at different times not more than 12 months apart.
- C. Two or more proposals for annexation may be voted upon simultaneously; however, in the City each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.
- D. The Council shall give notice of each annexation election by publication prior to such election once each week for four (4) successive weeks in a newspaper of general circulation in the City. Whenever simultaneous elections are held, the same notice and publication shall fulfill the requirements of publication for the City election and the election held in the territory. Notice shall also be given by posting notices of the election in four (4) public places within the City if votes are to be cast therein and four (4) public places in each territory proposed to be annexed for a like period as provided in this section for publication of notice. The notice shall distinctly state the proposition to be submitted, shall contain a legal description of, and a map indicating the boundaries of each territory proposed to be annexed, and the registered voters shall be invited thereby to vote upon such annexation. The Council shall also designate and the notice shall state the hours during which the polls will be open within the City and each territory proposed to be annexed. If the election is to be held at the usual precinct polling places designated for a general election held at that time, or if the election is not held at the same time as a general election, but is held at the same polling places used for the last preceding general election, the notice shall so state. If any polling place is to be different than the regular polling places, the notice shall describe the location of the polling places to be used in the area or precincts in which the polling places are different.

3.212.07 ANNEXATION PROCEDURE WITHOUT CITY ELECTION

- A. By ordinance, the Council may, if the Charter so provides, elect to dispense with submitting the annexation proposal to the registered voters of the City, set a date for public hearing, at which time the registered voters of the City can be heard on the annexation proposal.
- B. Notice of the public hearing shall be published once a week for 2 successive weeks prior to the day of the hearing, in a newspaper of general circulation in the City, and posted in 4 public places in the City for a like period.

- C. Written notice shall be given to all property owners within the boundaries of the proposed annexation and within 200 feet of the external boundaries of the proposed annexation.
- D. After the public hearing the Council, by ordinance subject to referendum, and containing a legal description of the proposed annexation.
 - 1. Declare that the territory is annexed to the City upon the condition that the majority of the votes cast in the territory is in favor of annexation;
 - 2. Declare that the territory is annexed to the City where persons with land ownership in the proposed territory consent in writing to such annexation.

3.212.08 ANNEXATION PROCEDURE WITH ELECTION IN PROPOSED TERRITORY

- A. The Council need not call or hold an election in any contiguous territory proposed to be annexed, or post notice in the contiguous territory, if more than half the owners of land in the territory who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file the annexation proposal on or before the day:
 - 1. The public hearing procedure shall be pursuant to Section 3.212.05 and Section 3.212.07. If the Council dispenses with submitting the question to the registered voters of the City; or
 - 2. The Council takes the necessary action to call the annexation election in the City under Section 3.212.06, if the Council submits the question to the registered voters of the City.

3.212.09 HEALTH HAZARD ANNEXATION

If the City Council finds that a danger to public health exists in certain territory, and it is determined through the process provided for in ORS 222.850 - 222.915 that such danger can be removed or alleviated by sanitary sewer, water or other facilities provided by the City, then the annexation of that territory shall be according to the statutory process for Health Hazard Annexations. Findings and procedures based upon Section 3.212.05 are not required.

3.212.10 ISLAND ANNEXATION

- A. It is within the power and authority of the City by ordinance subject to referendum, to annex land that is surrounded by the corporate limits or boundaries of the City, with or without consent of any property owner or resident in the territory.
- B. The City shall attempt to avoid creating islands of unincorporated territory within the incorporated limits of the city. If an island is created, the island may be annexed pursuant to ORS 222.750.

- C. Notice and procedure for public hearing shall be provided pursuant to the provisions of Section 3.212.07.
- D. If the Council elects to submit the questions to the registered voters of the City, procedure shall be pursuant to Section 3.212.06.

3.212.11 RECORDING WITH COUNTY CLERK, COUNTY ASSESSOR AND OREGON DEPARTMENT OF REVENUE

The City shall report all changes in the boundaries or limits of the City to the County Clerk, County Assessor and Oregon Department of Revenue. The report shall contain a legal description of the new boundaries and shall be filed within 10 days from the effective date of the change of any boundary lines.

3.212.12 FILING WITH THE SECRETARY OF STATE

With the exception of “Island Annexation,” the City Recorder shall submit to the Secretary of State:

- A. A copy of the annexation ordinance;
- B. An abstract of the vote within the City if votes were cast therein, which shall show the whole number of registered voters voting therein on the annexation, and the number of votes cast in favor of, and against, the annexation;
- C. A copy of the statement of consent of landowners in the territory annexed;
- D. A copy of the ordinance of the City declaring that no election is required in the City; and
- E. An abstract of the vote upon the referendum if a referendum petition was filed with respect to the deferred ordinance.

3.212.13 EFFECTIVE DATE OF ANNEXATION

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, 111.900, and Subsection 3.020. Thereafter, the annexed territory shall be and remain part of the City. The date of such filing shall be the effective date of annexation, provided such filing is not made later than 90 days prior to any general or primary election; otherwise, the effective date of such annexation shall be the day after the primary or general election next following the date of filing.

3.212.14 ZONE DESIGNATION OF ANNEXED PROPERTY

The City Council shall establish the appropriate zoning, in conformance to the Comprehensive Plan, upon annexation of property to the City.

Zone Map:

The yellow areas on the map below are Commercial Zones.
All other areas within the city limits are Residential.
Contact City Hall for more information.

