

ORDINANCE N° 3250

AN ORDINANCE CREATING THE CITY OF PENDLETON ZONING ORDINANCE TO IMPLEMENT THE CITY OF PENDLETON COMPREHENSIVE PLAN OF 1983 AND REPEALING ORDINANCE No. 2675, 2484, 2422 (SECTION 16 C), 2748, 2826, 2893, 2935, 2936, 2953, 2962, 3006, 3088 (Section 16), and 3156 (Section 17). (As amended by Ordinances No. 3276, 3278, 3305, 3343, 3363, 3376, 3384, 3394, 3428, 3435, 3440, 3453, 3485, 3486, 3490, 3494, 3511, 3518, 3529, 3541, 3558, 3562, 3566, 3570, 3575, 3576, 3584, 3586, 3592, 3615, 3647, 3652, 3657, 3660, 3661, 3664, 3690, 3692, 3698, 3699, 3704, 3706, 3699, 3717, 3728, 3736, 3737, 3738, 3745, 3756, 3760.)

THE CITY OF PENDLETON ORDAINS AS FOLLOWS:

ARTICLE I. TITLE AND PURPOSE

SECTION 1. SHORT TITLE. This Ordinance shall be known as the Pendleton “Zoning Ordinance” and the map herein referred to shall be known as the Pendleton “Zoning Map” said map and all explanatory matter thereon are hereby adopted and made a part of this Ordinance.

SECTION 2. PURPOSE. The text of this Ordinance and zoning map constitute the zoning ordinance and regulations for the area within the Urban Growth Boundary of the City of Pendleton and are adopted to protect and promote the public health, safety and welfare, and to provide the economic and social advantages which result from the orderly and planned use of land resources. Such regulations are designed to achieve the following objectives:

- A. To promote the achievement of the Comprehensive Plan for the City of Pendleton.
- B. To advance the position of the City of Pendleton as a regional center of commerce, industry, recreation and culture.
- C. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a suitable range of population densities, with adequate provision for sunlight, fresh air and usable open space.
- D. To protect residential, commercial, industrial and civic areas from the intrusions of incompatible uses, and to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services.
- E. To fix definite goals for the future development of Pendleton, thereby providing a basis for wise decisions with respect to such development.

SECTION 3. DEFINITIONS. The following words and phrases, when used in this Ordinance, shall have the meanings respectively ascribed to them in this section, excepting those instances where the context clearly indicates a different meaning. Words used in the present tense include the future, the singular number includes the plural, and the plural the singular, the word lot includes the word plot. The word shall is mandatory, while the word may is discretionary.

Abutting. Having a common linear boundary.

Access. A way or means of approach to provide physical entrance to a property.

Accessory Structure or Accessory Use. A structure or use incidental and subordinate to the main use of the property and located on the same lot as the main use; such as, but not limited to: private garage, carport, tool or storage shed, playhouse, private recreation facilities, guest house (no cooking facilities), temporary real estate sales office, fence, and satellite dish antennas. Above-ground fuel storage tanks are considered accessory structures, subject to the requirements of this Ordinance and other applicable local and state laws.

Acre. A measure of land area containing 43,560 square feet.

Addition. A structure added to the original structure at some time after the completion of the original.

Aisle. The traveled way by which cars enter and depart parking spaces.

Airport. A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

Airport Elevation. 1493 feet, as determined by the Airport Master Plan.

Airport Hazard. Any structure or vegetation located on or in the vicinity of the airport, or any use of land near said airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at said airport or is otherwise hazardous to such landing or takeoff of aircraft.

Airport Hazard Subdistrict. A zoning subdistrict designed to protect the airport from hazardous obstructions.

Airport Master Plan. That document adopted by the City Council as a plan for Airport development.

Alley. A service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Alteration. Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another. For purposes of the Historic Conservation Subdistrict, the term alteration shall mean any addition to, removal of, or change in the exterior part of a structure and shall include modification of the surface texture, material, or architectural details of the exterior part of the structure, but shall not include paint color.

Approach, Transitional, Horizontal, and Conical Zones. These zones apply to the area under the approach, transitional, horizontal, an conical surfaces defined on the approach and clear zone within the Airport Master Plan.

Average Slope. A measure of topographical features derived by dividing the change in elevation by the linear distance over which such elevation change occurs.

Awning. A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

Boarding House. A dwelling, or part thereof, in which lodging is provided by the owner or operator to more than two (2) boarders.

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

Cabana. A stationary, light weight structure which may be prefabricated or demountable, with two or more walls, used adjacent to and in conjunction with a mobile home, to provide living space meant to be moved with the mobile home.

Carport. A roofed structure, or portion of a building, open on two (2) or more sides, used primarily for the parking and storage of automobiles and other property.

Cemetery. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes; including columbaria, crematories, mausoleums, and mortuaries (when operated in conjunction with and within the boundary of such cemetery).

Central Area Parking District. A group of properties within the downtown Pendleton area as portrayed on Figure 10, that participated in LID #293 which established parking lots in the downtown area. Uses within this district are not required to provide off-street parking as set forth in Section 83 of this Ordinance.

Church. A building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of religious services and accessory uses associated therewith.

City. The City of Pendleton, Oregon.

City Manager. The City's chief administrative officer or authorized agent.

City Park. A recreation area dedicated and preserved public usage.

City Planner. The Director of the Department of Planning and Building; an authorized agent of the City Manager with duty to administer and enforce this Ordinance.

City Standards. Those designs, drawings and specifications of all public improvements adopted by the Public Works Director as authorized by the City ordinance, setting forth the accepted design of such improvements.

Class A Manufactured Housing Subdistrict. A zoning subdistrict identified on Map VI of the Pendleton Comprehensive Plan in which manufactured housing defined by this ordinance as "Class A" may be installed, subject to the requirements of this ordinance.

Class B Manufactured Housing Subdistrict. A zoning subdistrict identified on Map VI of the Pendleton Comprehensive Plan in which manufactured housing defined by this ordinance as "Class A" or "Class B" may be installed, subject to the requirements of this ordinance.

Clear Vision Area. A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. 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 lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. (See Sections 116 and 117.)

Clinic. Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths or other members of the healing arts and which may include a dispensary in each such building to handle merchandise of a nature customarily prescribed by occupants in connection with their practices.

Commercial Amusement and Recreation Establishment. An establishment operated for profit and devoted to facilities and equipment for recreation purposes, including bowling alleys, billiard establishments, skating rinks, recreation centers and similar uses whether the use of such establishment is limited to private membership or open to the public upon payment of a fee.

Common or Party Wall. A wall of fire-resistive construction, built to Uniform Building Code standards as a separation between two attached single-family dwelling units.

Conditional Use. Certain land uses which, due to special requirements, unusual character, size or shape, infrequent occurrence, or possible detrimental effects on surrounding property, and for similar reasons, may be allowed by the Planning Commission only as set forth in Article XIX of this Ordinance.

Condominium. A system of separate ownership of attached single-family dwellings in a multiple unit structure, wherein only the interior portion of the dwelling unit itself is owned outright by the occupants, while the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

Cross-Section. A profile of the ground surface perpendicular to a center line.

Day Nursery. Any facility that provides care to six (6) or more children, including children of the provider, regardless of full-time or part-time status.

Demolition. To raze, destroy, dismantle, deface, or in any other manner cause partial or total ruin of an historic site or structure.

Density. The number of housing units per gross acre of land within a defined area.

Dwelling. A building designed exclusively for residential purposes, including single-family, duplex, and multi-family residences, but not including hotels or motels.

Dwelling, Caretaker or Manager Only. A use accessory to a commercial or industrial facility for a residence for a caretaker or manager which may be allowed with a principal commercial or industrial use on the same property. If a manufactured home, it shall be only of Class A, B, or C.

Dwelling, Duplex. A detached residential building under one ownership that is designed for the occupancy of two (2) families.

Dwelling, Multi-Family. A residential building under one ownership that is designed for the occupancy of three (3) or more families.

Dwelling, Single Family. A detached, conventional manufactured or prefabricated residential dwelling unit designed to be occupied by one family.

Dwelling, Single Family Attached. An attached residential building that contains more than one single family dwelling unit in combination with individual lot ownership.

Dwelling Unit. One or more rooms designed for or occupied by one family.

Erect. To attach, place, alter, construct, reconstruct, or enlarge a principal or accessory building or structure.

Existing Manufactured Home Park or Subdivision. One in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before May 1, 1990. The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

Family. One or more persons related by blood, marriage, legal adoption, or legal guardianship living together in a dwelling unit, together with unrelated individuals up to a total number of occupants that will not exceed that allowed by the Housing Code.

Family Day Care Provider. A person providing care, in the home of the provider, to twelve (12) or fewer children, including children of the provider, regardless of full-time or part-time status. This use shall be treated as a single family dwelling for zoning purposes.

Fence, Sight Obscuring. An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Floor Area. The area within the surrounding walls of a building or portion thereof, exclusive of vent shafts and courts.

Fuel Storage Tank (Above-Ground). A tank installed on property for the storage of flammable liquids. Said tanks are a maximum of 6000 gallons in size, are installed so as to not be accessible to the public and are used solely for the fueling of vehicles associated with the main use of the property.

Garage, Private. An accessory building, enclosed on at least three (3) sides, used for the parking and storage of vehicles or recreational equipment owned or used by the occupants of the principal structure.

Garage, Public. A building available for use by the public for the parking or temporary storage of motor vehicles or recreational equipment.

Governmental Structure or Land Use. A building or use being occupied or conducted by a local, state, or federal government agency (excluding City parks and infrastructure improvements located within public rights of way or easements).

Ground Level. The average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five (5') feet of a sidewalk, the above-ground level should be measured at the sidewalk (see Figure #7).

Health Officer. The Umatilla County Health Officer.

Height of Building. The vertical distance, using mean sea level elevation datum, from the ground level to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof (See Figure #7).

Highway Ready. Refers to a recreation vehicle that is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Historic Conservation Subdistrict. A City-wide zoning subdistrict designed to ensure public review of actions affecting designated historic sites, structures, and districts as inventoried within the Comprehensive Plan, or designated as such in the future, with the purpose of preserving the City's architectural and cultural heritage.

Historic Preservation District. A relatively compact, definable geographic area possessing an obvious concentration, linkage or continuity of sites, buildings or structures united by past events, architectural styles, construction features or other physical features illustrative of the community's historic development.

Historic Site or Structure. Any historic site or structure, or a geographic area listed on the City of Pendleton Inventory of Historic Buildings, Sites and Districts or recognized as significant by the City of Pendleton Comprehensive Plan and Technical Report.

Historic Resource. A district, site, building, structure, object or natural feature significant in American history, architecture, archeology or culture. It may be of value to the nation as a whole, or important only to the community in which it is located.

Home Occupation. Any activity conducted within a dwelling unit for financial gain or profit; such activity being clearly incidental to the use of the dwelling unit and conducted by persons residing in the unit, on a full-time, year-round basis. A business conducted within a dwelling unit shall be classified as a Home Occupation if it:

1. Employs persons other than residents of the home; or
2. Anticipates more than 2 clients or customers per day will visit the home; or
3. Provides for a sign announcing the business.

Businesses conducted in dwelling units that generate less neighborhood impact than Home Occupations shall be considered a dwelling unit for zoning purposes, provided that such business comply with the criteria of Section 29(B) of this Ordinance. A business conducted within a dwelling unit will not be classified as a Home Occupation if the only business activity conducted at the home is instruction of five or fewer persons at one time and the activity generates less neighborhood activity than does a Home Occupation. (See Article V, Section 29, for regulations.)

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

Hospital Industrial Subdistrict. A zoning subdistrict designed to ensure the compatible development of light industries on lands within the State of Oregon property in the vicinity of the Eastern Oregon State Hospital and Training Center (See Sections 87-88 of this Ordinance).

Hotel. A building offering transient lodging (there being no cooking facilities in the guest rooms) and additional services such as restaurants, meeting rooms and recreational facilities.

Infrastructure Improvements. Facilities and structures such as streets, curbs, gutters, sidewalks, storm sewers, sanitary sewers, water lines, private utility poles/lines, bridges, traffic control mechanisms, fire hydrants, and other items commonly found within public rights of way or easements. Such improvements shall be considered outright uses within all zones.

Interior Yard. A side or rear yard not abutting upon a public street.

Intermediate Regional Flood. The flood that has a one percent (1%) chance of being equaled or exceeded in any single year.

Junk Yard. Any property devoted wholly or in part to the storage, buying, selling or otherwise handling of or dealing in scrap or waste material.

Kennel. Any place where dogs, cats, or other household pets are trained, boarded, bred, or sold for financial return.

Larger Than Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

Limited Use Development Subdistrict (L-U). A zoning subdistrict designed to accommodate special cases where the timing of land development or the uses allowed on land warrant restriction beyond that provided by the underlying land use designation.

Livestock. Animals of the bovine species, horses, mules, asses, sheep, goats, and swine, or other like animals, but does not include pygmy goats.

Lodging House. A residence wherein lodging is provided for compensation but where meals for guests shall neither be provided nor permitted.

Lot. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

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

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

Lot Coverage. The percentage of a building lot that is covered by any roofed structure. (See Figure 6).

Lot, Interior. Any lot that abuts a street on only one (1) side.

Lot Line. The property line bounding a lot.

Lot Line, Front. In the case of an interior lot, the lot line separating one lot from a street other than an alley. In the case of a corner lot, the lot line upon which the main entrance to the building faces, or is to face, according to a building permit application. If a property has no structure, and is not the subject of a building permit application, the front lot line shall be the shortest lot line abutting a street other than an alley. (See Figure 2.)

Lot Line, Rear. A lot line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line. (See Figure 2.)

Lot Line, Side. Any lot line not a front or rear lot line. (See Figure 2.)

Lot, Through. A lot fronting upon two (2) streets other than alleys; thus, containing two (2) front yards.

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 dwelling unit fabricated in an off-site manufacturing facility, transportable in one or more sections, which is built on a permanent chassis for installation or assembly at the building site, and designed for use with or without a permanent foundation when connected to the required utilities. The four types of manufactured homes (Class A, B, C and D) are defined as meeting all of the appropriate requirements of this Ordinance, as set forth in Article V, Section 31 and 32. Class A, B and C manufactured homes bear a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code. Class D manufactured homes were not built in compliance with this code. For flood plain management purposes the term "Manufactured Home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured Home Park. Any place where seven (7) or more manufactured homes are located within five hundred (500) feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. (See Section 30 for regulations.)

Manufactured Home Subdivision. A subdivision as defined in the City of Pendleton Subdivision Ordinance and intended to be occupied primarily or exclusively by manufactured homes.

Manufactured Housing Construction and Safety Standards Code. Title VI of the 1974 Housing and Community Development Act (42 U.S.C. 5401 et sequential), as amended (previously known as the federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder (including information supplied by the home manufacturer) which has been stamped and approved by a Design Approval Primary Inspection Agency, an agent of the U. S. Department of Housing and Urban Development pursuant to HUD rules and regulations and interpretations of said code by the Oregon Department of Commerce; all of which became effective for mobile/manufactured home construction on June 15, 1976.

Mixed Use District. A zoning subdistrict designed to allow for the "master-planning" of relatively large tracts of land in conformance with the Comprehensive Plan. (See Article XIV.)

Motel. A building or group of buildings on the same lot containing guest units with separate entrances and consisting of individual sleeping quarters, detached or in connecting rows, with or without cooking facilities.

Motor Home. A portable unit designed to be driven under its own power having sleeping, cooking, and plumbing facilities independent of external utility connections, and designed for use principally as a temporary recreational or vacation residence.

Neighborhood Commercial Use. A use within a residential zone intended to meet the daily convenience shopping or service needs of residents in the immediate area. (See Article V, Section 28, for regulations.)

Nonconforming Structure or Use. A lawful existing structure, use, or vegetative growth at the time this Ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Nonprecision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction. Any structure, vegetative growth, or other object (mobile or immobile) which exceeds a limiting height set forth in Article XI, Section 69, of this Ordinance.

Off-Street Parking Space, Automobile. A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located within a dedicated street right of way. (See Sections 119-121 for standards.)

Off-Street Parking Space, Bicycle. A temporary storage area for a bicycle located on private property, whether it be in a rack, locker, or a 25 square foot clear space, or other design approved by the City.

Parking Area, Public. An area, other than a street, used for the temporary parking of four (4) or more automobiles and available for public use whether free, for compensation, or as an accommodation for clients or customers.

Pendleton Landmarks Commission. A Commission formed to administer the provisions of the Historic Conservation Subdistrict. Until such time as a Landmarks Commission is established by Umatilla County, the Pendleton Planning Commission shall serve as Pendleton's Landmarks Commission.

Person. A corporation, company, association, society, firm, partnership, or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof.

Planning Commission. The Pendleton City Planning Commission.

Planned Unit Development (PUD). An area of land to be developed as a single entity for a number of dwelling units and may include public or semi-public, commercial or industrial uses.

Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Prefabricated (Modular) House. A sectional or factory-built single-family dwelling to which wheels may or may not be attached for the purpose of moving it to a home site where it is affixed to the real property on a permanent foundation. A

prefabricated house must comply with the requirements for Group 1 occupancies in the current Uniform Building Code prepared by the International Conference of Building Officials and with the requirements for dwellings in the current National Electrical Code as prepared by the National Fire Protection Association.

Preservation. The act or process of applying measures to sustain the existing form, integrity, and material of an historic building, structure or object, and the existing form and vegetation cover of a site. It may include initial stabilization work, where necessary, as well as on-going maintenance of the historic building materials.

Primary Surface. A surface longitudinally centered on the runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Public or Semi-public Use. An area owned or operated by a public or non-profit organization for the benefit of the public generally. (This does not include landfill sites, garbage dumps, governmental structures and land uses, City parks or infrastructure improvements located within public rights of way or easements.)

Pygmy Goat. A genetically small, cobby, and compact goat whose body circumference in relation to height and weight is proportionately greater than other breeds of goats; having a maximum height of not exceeding 23 inches for a Doe (female), 24 inches for a Buck (unneutered male), and 27 inches for a Wether (neutered male), with measurement taken at the highest part of the back at the base of the neck where the shoulder blades almost touch. It does not include Bucks (unneutered males) of more than six months of age.

Ramada. A stationary structure having a roof extending over a mobile home or trailer which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from sun and rain.

Reasonable Direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

Recreational Equipment. Boats, boat trailers, travel trailers, pickups campers or coaches (designed to be mounted on automotive vehicles), motor homes, tent trailers, motorcycles, and the like.

Reinforced Pier. At a minimum, a reinforced pier must have a footing adequate to support the weight of the manufactured home under saturated soil conditions. concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacked concrete blocks do not constitute reinforced piers.

Residential Facility. A facility including those licensed by or under the authority of the Department of Human Resources under Oregon Law which provides residential care alone or in conjunction with treatment or training or a combination thereof for six (6) to fifteen (15) individuals who need not be related. Staff 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, including those licensed by or under the authority of the Department of Human Resources under Oregon Law which provides residential care alone or in conjunction with treatment or training or a combination thereof for five (5) or fewer individuals who need not be related. Staff persons required to meet 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.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Sanitary Landfills or Solid Waste Disposal Sites. Places or facilities for disposing of refuse on or beneath the land surface.

Solar Energy System. A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy.

Solar Skyspace. The space between a solar energy collector and the sun which must be kept free of obstructions that shade the collector to an extent which precludes its cost-effective operation.

Solar Skyspace Easement. A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar skyspace may be described as the three-dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two methods. (See Section 118 and Appendix B.)

Solid Waste Transfer Station. A place or facility the principal purpose of which is to provide a place where waste materials are taken from smaller collection vehicles and placed in larger transportation units for movement to disposal areas, such as landfills. Compaction, separation, recycling, and other activity incidental to solid waste management may be done at the station.

Solid Waste Treatment Facilities. A facility designed to change the physical, chemical, or biological character or composition of any solid waste. Does not include landfills or transfer stations.

Standard Industrial Classification Manual (SIC). The latest publication (including supplements) prepared by the Statistical Policy Division, Office of Management and Budget, Executive Office of the President of the United States, and

available from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. As used in this Ordinance, the SIC shall constitute the detailed listing and description of uses allowed in the various zoning districts, except where such uses are otherwise defined in this Ordinance.

Start of Construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state 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 foundations 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.

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 top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six (6') feet above ground level, such basement or cellar shall be considered a story.

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

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

Structure. That which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground (or which is attached to something having a location on the ground). See also, "infrastructure improvements," which are separately defined.

Subdistrict. An area accurately defined as to boundaries and location on an official zoning map and designed to accommodate special development problems which might occur within any zone. It is used in combination with "underlying" or "parent" use zones.

Temporary Use. A short-term use not normally allowed in a given zoning district, which may be permitted by the City Council, on recommendation of the Planning Commission in accordance with Article XIX, Section 145-146 of this Ordinance.

Townhouse. Two or more attached single-family dwellings, having common "party" walls, but with independent entrances and lot ownership.

Trailer. Any portable unit designed and built to be towed on its chassis, comprised of frame and wheels, and which does not fall within the definition of vacation trailer, mobile home or prefabricated house. This definition includes boat trailers, bunk trailers, portable school rooms, and industrial, commercial or public offices and accessory uses.

Umatilla River Subdistrict. A zoning subdistrict designed to guide development of the lands adjacent to the Umatilla River and its tributaries as they traverse the City. (See Article XVI of this Ordinance).

Uniform Building Code. The Uniform Building Code as adopted by the state of Oregon and the City of Pendleton, a copy of which is on file at the City Hall Building Department.

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

Vacation Trailer. A vehicle which is (1) built on a single chassis, (2) four hundred square feet (400) 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) primarily designed as temporary living quarters for camping, travel or seasonal use. Duration of use, without compliance with applicable manufactured home regulations for siting, set-up, water, sewer, and electrical hook-ups, shall be limited to twelve months in any thirteen month period. (Amended by Ordinance No. 3576, passed January 1998.)

Vacation Trailer Park. A plot of ground upon which two or more vacation trailers are located, for temporary residential purposes, regardless of whether a charge is made for such accommodation.

Variance. A modification of the provisions of this Ordinance, which modification shall be made by the Planning Commission so as to alleviate a hardship not anticipated by this Ordinance, and which hardship is peculiar to the land for which the variance is requested. (See Sections 138-144 of this Ordinance for regulations.)

Vegetation. Any object of natural floral growth.

Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures.

Wrecking Yard. Any property devoted in whole or in part to the dismantling for salvage, demolition, storage or sale of obsolete or damaged vehicles, trailers, similar items or their parts.

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

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

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

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

Zero Lot Line. An interior side or rear lot line that is also the location of a common or “party” wall separating attached single-family dwelling units. (See Figure 4.)

Zone. An area accurately defined as to boundaries and location on an official zoning map and within which area only certain uses of land are permitted and within which other types of land uses are excluded, as set forth in this Ordinance.

(Section 3, as amended by Ordinance No. 3276, passed September 27, 1983; Ordinance No. 3305, passed August 21, 1984; Ordinance No. 3363, passed March 3, 1987; Ordinance No. 3376, passed March 3, 1987; Ordinance No. 3428, passed May 2, 1989; Ordinance No. 3440, passed March 20, 1990; Ordinance No. 3453, passed February 19, 1991; Ordinance No. 3490, passed August 17, 1993; Ordinance No. 3494, passed December 7, 1993; Ordinance No. 3511, passed December 6, 1994; Ordinance No. 3518, passed June 20, 1995; Ordinance No. 3529, passed December 19, 1995; Ordinance No. 3541, passed February 20, 1996; Ordinance No. 3706, passed May 18, 1996, and Ordinance No. 3690, passed April 20, 2004, Ordinance No. 3745, passed June 19, 2007.)

ARTICLE II. ESTABLISHMENT OF ZONES

SECTION 4. CLASSIFICATION OF ZONES. For the purpose of this Ordinance the following zones are hereby established in the City:

<u>Name of Zone</u>	<u>Abbreviated Designation</u>
Exclusive Farm Use	EFU
Low Density Residential	R-1
Medium Density Residential	R-2
High Density Residential	R-3
Central Commercial	C-1
Tourist Commercial	C-2
Service Commercial	C-3
Light Industrial	M-1
Heavy Industrial	M-2
Aviation Activities	A-A

(Section 4, as amended by Ordinance No. 3760, passed October 16, 2007.)

SECTION 5. SUBDISTRICTS. Subdistricts and their accompanying regulations shall apply in addition to the regulations of the basic zone. If a conflict in regulations or standards occurs between the land use zone and an overlay zoning subdistrict, the provisions of the subdistrict shall take precedence. Subdistricts shall be designated by adding the following suffixes to the symbol of the parent zone:

<u>Subdistrict</u>	<u>Suffix</u>
Airport Hazard	AHZ
Flood Hazard	F-H
Prison/Hospital Industrial	P/HIS
Airport Industrial	AI
Business Park	BP
Regional Distribution Center	RDC
Class A Manufactured Housing	MHA
Class B Manufactured Housing	MHB
Historic Conservation	HC
Mixed Use Development	MXD
Planned Unit Development	PUD
Umatilla River	U-R
Limited Use Development	L-U

The Standard Industrial Classifications (SIC) Manual (See definition above) is used throughout this Ordinance in the zoning districts and subdistricts to identify specifically which land uses are permitted outright or conditionally. Appendix A of this Ordinance contains a listing of SIC code titles to aid the user in determining what use an SIC code number refers to. The Standard Industrial Classification manual as defined herein is hereby adopted to be a part of this Ordinance by reference. The zones and subdistricts established above are consistent with those land use areas and districts as set forth on the Comprehensive Plan Land Use, Special Use, Waterway Use and Manufactured Housing Subdistrict maps.

(Section 5, as amended by Ordinance No. 3276, passed September 27, 1983; Ordinance No. 3305, passed August 21, 1984; Ordinance No. 3363, passed March 3, 1987; Ordinance No. 3428, passed May 2, 1989; Ordinance No. 3511, passed December 6, 1994, and Ordinance No. 3760, passed October 16, 2007.)

ARTICLE III. EXCLUSIVE FARM USE ZONES (EFU)

SECTION 6. DESCRIPTION AND PURPOSE. The purposes of the Exclusive Farm Use Zone are:

1. to preserve and maintain agricultural lands for farm use, including range and grazing uses, consistent with existing and future needs for agricultural products, and open spaces;
2. to conserve and protect scenic resources;
3. to maintain and improve the quality of air, water, and land resources of the City;
4. to establish criteria and standards for farm uses and related and supportive uses which are deemed appropriate, and
5. to provide the automatic farm use valuation for farms which qualify under the provisions of Oregon law.

SECTION 7. USES PERMITTED OUTRIGHT. In the EFU zone, the following uses and their accessory uses are permitted, as identified by Standard Industrial Classification (SIC) code:

(A) Farm Use, (SIC 01; 02 except 0211 and 0213; 07, 097). For the purpose of this section, farm use includes customary accessory uses such as but not limited to: corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage);

(B) The production of alcohol fuels from agricultural products for private use on farm premises;

(C) Sale of agricultural produce grown on the farm premises, (SIC 5431);

(D) Utility facilities necessary for public service except commercial facilities for the purpose of generating power for use by sale.

(Section 7, as amended by Ordinance No. 3276, passed September 27, 1983; and Ordinance No. 3428, passed May 2, 1989.)

SECTION 8. CONDITIONAL USES PERMITTED. In an EFU zone, the following uses may be permitted conditionally subject to the requirements of Section 8 of this Ordinance:

A. Operations conducted for the exploration, mining and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources (SIC 10-14);

B. Farmstead divisions from original farm units when the following can be met:

(1) The person making the request has resided on and owned the property for at least the preceding ten (10) consecutive years;

(2) The remainder of the parcel shall not be partitioned for a similar purpose;

(3) The purpose of the homesite partition shall be for retirement thereon;

(4) The remainder of the property shall continue in farm use;

(5) The original parcel is a minimum of twenty (20) acres;

(6) The first right of refusal for repurchase of the farmstead parcel is given to the parent parcel;

(7) The farmstead parcel shall be a maximum of five (5) acres which includes the original farm dwelling and necessary accessory buildings to support the residential use only. The farmstead parcel shall be only as large as necessary to accommodate the residential use, and shall not include tillable land from the farmstead.

C. Commercial utility facilities for the purpose of generating power for public use by sale;

D. Cattle feed lots, stockyards, hog farms (SIC #0211, 0213);

E. Home occupations carried on by residents as an accessory use within their dwelling or other buildings customarily provided in conjunction with farm use (see Section 29 of this Ordinance for home occupation criteria).

F. The dwelling (mobile home or single family dwelling) and other buildings customarily provided in conjunction with farm use, on lots that meet the size requirement of this Article, in accordance with Oregon Law. (This includes the principal farm dwelling for the owner or operator and farm employee dwellings, bunkhouses and their accessory uses [e.g. garages and storage sheds], but does not include barns, sheds, personal use grain elevators, silos, corrals, etc.).

G. Other buildings and uses not listed in Sections 7 or 8 above that appear in Oregon Law as alternate uses permissible in an exclusive farm use zone.

(Section 8, as amended by Ordinance No. 3305, passed August 21, 1984; and Ordinance No. 3428, passed May 2, 1989.)

SECTION 9. LIMITATIONS ON CONDITIONAL USES. The following limitations shall apply to a conditional use in an EFU zone:

A. Conditional uses permitted by Section 8 of this Ordinance may be established on lands subject to the criteria set forth in subsection (B) of this section and upon a finding that each such use:

(1) Is compatible with farm uses as defined with the intent and purpose set forth in Oregon law, the comprehensive plan and this Ordinance;

(2) Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm uses;

- (3) Does not materially alter the stability of the overall land use pattern of the area;
- (4) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil conditions, drainage and flooding, vegetation, location and size of the tract.

B. Criteria to evaluate conditional uses:

- (1) Immediate and future impact on public services, existing road systems and traffic demands;
- (2) Soil type and its development limitations, including slides, erosion, flooding and drainage;
- (3) Agricultural productivity including food productivity and the production of any usable agricultural product which requires open space and a non-urban environment;
- (4) Development minimizes potential adverse effects on terrain, slope and ground cover;
- (5) Development is compatible with the existing land use pattern and the character of the overall area;
- (6) An adequate quantity and quality of water is available and either subsurface or other sanitary disposal system exists or can be provided and adequate provision for solid waste disposal exists;
- (7) Conversion of agricultural lands to non-farm uses shall be based upon consideration of the following factors:
 - (a) Environmental, energy, social and economic consequences;
 - (b) Compatibility of the proposed use with related agricultural land;
 - (c) The retention of Class I through VI soils in farm use.

SECTION 10. DIMENSIONAL STANDARDS. In an EFU zone, the following dimensional standards shall apply:

A. **MINIMUM LOT AREA.**

- (1) **FARMLANDS.** A minimum of forty (40) acres shall be required of new farm parcels.

B. **CONDITIONAL USES.** The minimum lot area for all non-farm uses permitted by this section shall be:

- (1) As necessary for the protection of public health and the size needed to accommodate the use and its accessory uses;
- (2) Considered in compliance with applicable comprehensive plan policies;
- (3) Compatible with adjoining land uses;
- (4) Considered in relation to the overall land use patterns of the area;
- (5) Designed to retain the maximum possible agricultural land for farm use.

(Section 10, as amended by Ordinance No. 3276, passed September 27, 1983.)

[SECTIONS 11-12 Reserved for Expansion.]

ARTICLE IV. RESIDENTIAL ZONES

LOW DENSITY RESIDENTIAL ZONE R-1

SECTION 13. DESCRIPTION AND PURPOSE. To provide for the transition of large, sparsely settled areas from rural or agricultural characteristics to urban one-family residential use and to provide areas where a partial agricultural atmosphere is retained.

SECTION 14. USES PERMITTED OUTRIGHT. In a Low Density Residential Zone R-1, the following uses and their accessory uses are permitted outright:

- A. City Park;
- B. Condominium;
- C. Dwelling, duplex; or two single family dwellings on a minimum lot size of 6,000 square feet (subject to the provisions of Section 22), provided the distance between principal buildings is a minimum of ten feet;
- D. Dwelling, single family (attached or detached);
- E. Keeping of livestock (except swine), fowl, rabbit and bees primarily for personal, noncommercial use, provided that:
 - (1) in the case of livestock, it shall be kept in an enclosure having a minimum area of 2,500 square feet for each animal kept therein.
 - (2) in the case of rabbits or other like animals or fowl, animals or fowl shall be kept in an enclosure having not less than fifteen (15) square feet for each animal or fowl.
 - (3) in any event no structure, building, corral, or enclosure erected or maintained for purposes of keeping livestock, rabbits or fowl shall be located within one hundred (100') feet of a dwelling, school, church, hospital, public playground or public building;

- F. Manufactured Home, Class A, provided that it is located within a Class A or Class B Manufactured Housing Subdistrict, and Class B, provided that it is located within a Class B Manufactured Housing Subdistrict, both subject to the requirements of Sections 31 and 32 of this Ordinance.
- G. Residential Homes and Residential Facilities;
- H. Townhouse.

(Section 14, as amended by Ordinance No. 3276, passed September 27, 1983; Ordinance No. 3363, passed March 3, 1987; Ordinance No. 3440, passed March 20, 1990; Ordinance No. 3453, passed February 20, 1991; Ordinance No. 3494, passed December 7, 1993; Ordinance No. 3592, passed January 19, 1999.)

SECTION 15. CONDITIONAL USES PERMITTED. In a Low Density Residential (R-1) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

- A. Agricultural Production and Services (SIC Major Groups 01 - 07);
- B. Animal Clinic, Kennel, or Hospital;
- C. Cemetery;
- D. Church;
- E. Day Nursery, Social Services (SIC Major Group 83);
- F. Dwelling, multi-family, provided that:
 - (1) Housing development shall not exceed more than nine (9) dwelling units per gross acre;
 - (2) The primary access shall be via a street that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission;
 - (3) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm water to serve the development shall be totally at the expense of the developer and consistent with applicable City policies and ordinances;
 - (4) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;
 - (5) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirements of Sections 119-121 of this Ordinance) prior to issuance of a building permit;
 - (6) An agreement, recorded by the property owner, shall be instituted that will prohibit the parcel of land approved for multi-family use under this Section from being further developed or subdivided for purposes of sale or building development. Lands left undeveloped or in open space shall be maintained by the property owner so as not to conflict with the provisions of Ordinance No. 2422 (Section 16 and other applicable sections);
- G. Governmental structure or land use, public and semi-public use; or structures, including, but not limited to: SIC Major Groups 43, 91, 92, 93, 94, 95 and 96;
- H. Home occupation; as provided in Section 29 of this Ordinance;
- I. Hospital and Health Care Facility, SIC Groups 805 and 806;
- J. Light Industrial Uses (SIC Major Groups 25, 27, 36, 38, and 39, and SIC Groups 205, and 357);
- K. Manufactured Home Park, Manufactured Home Subdivision, Vacation Trailer Parks (Individual Conditional Use permits not required for each unit within approved parks or subdivisions);
- L. Neighborhood Commercial, see Article V, Section 28, for details;
- M. Schools and Colleges (SIC Major Group 82);
- N. Transportation and Communication Facilities (SIC Major Groups 40, 4221, 4225, 45, 46, 4783, 48 and 49).

(Section 15, as amended by Ordinance No. 3276, passed September 27, 1983; Ordinance No. 3278, passed November 22, 1983; Ordinance No. 3363, passed March 3, 1987; Ordinance No. 3440, passed March 20, 1990; Ordinance No. 3453, passed February 20, 1991; and Ordinance No. 3570, passed October 21, 1997.)

MEDIUM DENSITY RESIDENTIAL ZONE R-2

SECTION 16. DESCRIPTION AND PURPOSE. To provide for land areas to be used predominately for dwellings of varying types within a moderate density range, together with related uses.

SECTION 17. USES PERMITTED OUTRIGHT. In a Medium Density Residential (R-2) zone, the following uses and their accessory uses are permitted:

- A. City Park;
- B. Condominium;
- C. Dwelling, duplex; or two single family dwellings on a minimum lot size of 5,000 square feet (subject to the provisions of Section 22), provided the distance between principal buildings is a minimum of ten feet.

D. Dwelling, single family (attached or detached);
E. Manufactured Home, Class A provided that it is located within a Class A or Class B Manufactured Housing Subdistrict, and Class B, provided that it is located within a Class B Manufactured Housing Subdistrict, both subject to the requirements of Sections 31 and 32 of this Ordinance.
F. Residential Homes and Residential Facilities;
G. Townhouse.
(Section 17, as amended by Ordinance No. 3363, passed March 3, 1987; Ordinance No. 3440, passed March 20, 1990; Ordinance No. 3453, passed February 20, 1991; Ordinance No. 3494, passed December 7, 1993; and Ordinance No. 3592, passed January 19, 1999.)

SECTION 18. CONDITIONAL USES PERMITTED. In a Medium Density Residential (R-2) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

A. Cemetery;
B. Church;
C. Day Nursery, Social Services (SIC Major Group 83);
D. Dwelling, multi-family, subject to the condition that:
(1) Housing development shall not exceed more than 15 dwelling units per gross acre;
(2) The primary access shall be via a street that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission;
(3) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm water to serve the development shall be totally at the expense of the developer and consistent with applicable City policies and ordinances;
(4) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;
(5) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirements Sections 119-121 of this Ordinance) prior to issuance of a building permit;
(6) An agreement, recorded by the property owner, shall be instituted that will prohibit the parcel of land approved for multi-family use under this section from being further developed or subdivided for purposes of sale or building development. Lands left undeveloped or in open space shall be maintained by the property owner so as not to conflict with the provisions of Ordinance No. 2422 (Section 16 and other applicable sections);
E. Governmental Structure or land use, public and semi-public use or structures, including, but not limited to: SIC Major Groups 43, 91, 92, 93, 94, 95 and 96;
F. Home Occupation (as provided in Section 29 of this Ordinance);
G. Health Services (SIC Major Group 80);
H. Manufactured Home Park, Manufactured Home Subdivision, Vacation Trailer Parks (Individual Conditional Use permits not required for each unit within approved parks or subdivisions);
I. Neighborhood Commercial, see Article V, Section 28, for details;
J. Schools and Colleges (SIC Major Group 82);
K. Transportation and Communication Facilities (SIC Major Groups 40, 4225, 45, 46, 48, and 49).
(Section 18, as amended by Ordinance No. 3276, passed September 27, 1983; Ordinance No. 3278, passed November 22, 1983; Ordinance No. 3363, passed March 3, 1987; Ordinance No. 3440, passed March 20, 1990; Ordinance No. 3453, passed February 20, 1991; Ordinance No. 3494, passed December 7, 1993; Ordinance No. 3570, passed October 21, 1997; and Ordinance No. 3615, passed January 4, 2000.)

HIGH DENSITY RESIDENTIAL ZONE R-3

SECTION 19. DESCRIPTION AND PURPOSE. To provide for residential units, at increased densities, offering varying forms of urban living. In judging the suitability of areas for high density development, it should be determined that:

A. The development has good access to arterial streets, shopping facilities, schools and major employment centers in order to provide maximum convenience for residents of the area;
B. Traffic generated by the high density development will not be required to travel through areas of lesser density en route to principal community facilities;
C. The development can be provided with municipal services at a level adequate to meet the demand for concentrated service.

SECTION 20. USES PERMITTED OUTRIGHT. In a High Density Residential Zone R-3, the following uses and their accessory uses are permitted outright.

- A. Boarding and lodging house;
- B. City Park;
- C. Condominium;
- D. Dwelling, duplex; or two single family dwellings on a minimum lot size of 5,000 square feet (subject to the provisions of Section 22), provided the distance between principal buildings is a minimum of ten feet;
- E. Dwelling, multi-family, provided that:
 - (1) Housing development shall not exceed more than 35 dwelling units per gross acre;
 - (2) Accesses to the site shall be via a collector, arterial, or minor street (as designated in the Comprehensive Plan) that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission;
 - (3) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm water to serve the development shall be totally at the expense of the developer, and consistent with applicable City policies and ordinances;
 - (4) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;
 - (5) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirements of Sections 119-121 of this Ordinance) prior to issuance of a building permit;
- F. Residential Home and Residential Facility;
- G. Townhouse.

(Section 20, as amended by Ordinance No. 3440, passed March 20, 1990; Ordinance No. 3453, passed February 20, 1991; and Ordinance No. 3592, passed January 19, 1999.)

SECTION 21. CONDITIONAL USES PERMITTED. In a High Density Residential (R-3) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance.

- A. Church;
- B. Day Nursery, Social Services (SIC Major Group 83);
- C. Governmental Structure or Land Use, public and semi-public use or structures, including, but not limited to SIC Major Groups 43, 91, 92, 93, 94, 95 and 96;
- D. Home Occupation (as provided in Section 29 of this Ordinance);
- E. Health Services (SIC Major Group 80);
- F. Lodge, private club (SIC Group 864);
- G. Neighborhood Commercial, see Article V, Section 28, for details;
- H. Schools and colleges (SIC Major Group 82);
- I. Transportation and Communication Facilities (SIC Major Groups 40, 4225, 45, 46, 48, and 49).
- J. Business and professional services (SIC Major Groups 73, 81, 87 and 89).

(Section 21, as amended by Ordinance No. 3276, passed September 27, 1983; Ordinance No. 3440, passed March 20, 1990; Ordinance No. 3615, passed January 4, 2000, and Ordinance No. 3704, passed June 15, 2004.)

ARTICLE V. GENERAL PROVISIONS FOR RESIDENTIAL ZONES

SECTION 22. LOT SIZE. In all of the residential zones, the minimum lot sizes shall be as follows:

<u>Zone</u>	<u>Average Existing Ground Slope</u>			
	<u>0-10%</u>	<u>10-20%</u>	<u>Over 20%</u>	
R-1	6,000*	7,000	9,000	* Sizes are in Square Feet
R-2	5,000	7,000	8,000	
R-3	5,000	6,000	7,000	
Exception: Attached Single Family Dwellings In all Zones	3,000	3,500	4,000	

Regardless of the minimum lot sizes listed above, all residential development must comply with the density ranges below:

- Low Density Residential (R-1) - 1 to 9 dwelling units per acre.
- Medium Density Residential (R-2) - 5 to 18 dwelling units per acre.
- High Density Residential (R-3) - 11 to 35 dwelling units per acre.

(Section 22, as amended by Ordinance No. 3592, passed January 19, 1999)

SECTION 23. MISCELLANEOUS LOT PROVISIONS.

A. **Building Lots Must Abut a Street.** No residential, commercial, or industrial building shall be erected on a lot which does not abut at least one street. Where there is a residence constructed, as of the date of this Ordinance, on an interior lot not abutting on a public street, such property shall continue unaffected except that in the case of reconstruction of such a structure, as provided in Section 128 of this Ordinance, nothing more than a single family dwelling and accessory buildings may be constructed upon such interior lot, and then only when easements for ingress and egress are recorded.

B. **Nonconforming Lots of Record.**

(1) In any zoning district in which single family dwellings are permitted, a single family dwelling and accessory buildings may be erected on an single lot of record in existence on the date of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

(2) This provision shall apply even though such lot fails to meet the requirements for area that are applicable in the zoning district, provided that yard dimensions and requirements other than those applying to area of the lot shall conform to the regulations for the zoning district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Planning Commission.

(3) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on the date of this Ordinance, and if all or part of the lots do not meet the requirements established for lot areas, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot size requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with a size below the requirements stated in this Ordinance.

C. **Parking, Storage or Use of Recreational Equipment.** No equipment shall be used for living, sleeping or housekeeping purposes, nor connected to utilities, when parked or stored on a residential lot, or in any location not approved for such use.

D. **Parking and Storage of Certain Vehicles.** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially used property other than in completely enclosed buildings.

(Section 23, as amended by Ordinance No. 3305, passed August 21, 1984; and Ordinance No. 3592, passed January 19, 1999.)

SECTION 24. YARD (SETBACK) REGULATIONS. The yard (setback) requirements in all residential zones shall be as follows:

A. Front Yard: twenty (20) foot minimum;

B. Side Yard: five (5) foot minimum, except on corner lots, where ten (10) feet are required on the side abutting the street, and in the case of attached single-family dwellings, where a zero lot line is allowable (with the provision of common "party" wall construction);

C. Rear Yard: five (5) foot minimum, except in the case of attached single-family dwellings, where a zero rear lot line is allowable (with the provision of common "party" wall construction).

SECTION 25. MISCELLANEOUS YARD PROVISIONS AND EXCEPTIONS.

A. The required front yard depths may be reduced in any residential zone as follows:

(1) If there are dwellings on both abutting lots with front yards of depths less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots;

(2) If there is a dwelling on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth: In determining the depth of a front yard, the required depth shall be measured at right angles to the nearest street right-of-way, except as provided in subsection (B) below.

B. No building shall be erected on a lot which fronts upon a street having only a portion of its required width dedicated (as set forth in the Comprehensive Plan), unless the yards provided and maintained in connection with such building have a width and/or depth needed to complete the street right-of-way width plus the width and/or depth of the yards required on the lot by this Ordinance.

C. The front wall of a garage, and any portion of a carport, shall not be permitted less than twenty (20) feet from the front property line.

D. Only under adverse topographical circumstances will a variance be granted for a front yard setback less than ten (10') feet.

E. In any residential zone, a porch, patio, deck and cover thereto, or unattached solar energy system shall be permitted to project not more than ten (10') feet into the required front yard. Such structures located in the required front yard shall not be enclosed to extend the living areas of the house. Satellite dish antennas shall not be located in the front yard of a dwelling.

F. In any zone, open work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls, may be located in required yards, provided such devices are not more than three and one-half (32') feet in height. Only stairs and protective railings may be located within the first ten (10') feet of the required front yard.

G. Projecting Building Features: The following building features may project into the required front yard no more than five (5') feet, and into the required interior yards no more than two (2) feet, provided that such projections are no closer than three (3) feet to any interior lot line:

(1) Architectural features such as gutters, flues, eaves, cornices, belt courses, sills, awnings, buttresses, or similar features;

(2) Chimneys and fireplaces.

H. Accessory Structure: In the interior rear and/or side yards, an accessory structure may be located so that its walls and/or projecting features shall be no closer than three (3) feet to the property line.

Exception: Above ground fuel storage tanks, as defined by this Ordinance shall be located so that no portion of the tank is closer to a property line or building than stated below:

0 - 275 gallons	-	10 foot setback
276 - 750 gallons	-	15 foot setback
751 - 6000 gallons	-	25 foot setback

Said tanks shall also comply with all applicable local and state fire codes. Installation and dispensing permits shall be required from the Pendleton Fire Marshal and Oregon State Fire Marshal. All tanks, regardless of capacity, shall require a conditional use permit when located in a residential zone.

I. Solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device shall be exempt from the interior yard requirements.

J. Driveways. In any district, driveways or access-ways providing ingress and egress to or from private parking areas or garages, public parking areas or garages and parking spaces shall be permitted, together with any appropriate traffic control devices in any required yard.

Driveway surfaces shall be designed for all weather conditions (paved or compacted gravel). Vehicle driveway and storage areas will not be allowed to be dirt or vegetation. For grades over 8 percent, paved driveway surfaces are required. All portions of the driveway within the public right-of-way, and at a minimum of the first 20 feet behind the curb or sidewalk shall be paved as an apron to control gravel.

For residential driveways, including private roads, the maximum slope of any portion of the driveway shall be 20 percent, with an overall average grade of less than 15 percent along the entire length of the driveway. The maximum grade change in any given 10 feet of driveway shall be 12 percent for a crest situation and 16 percent for a sag situation. The maximum number of houses served by a driveway or private road is three.

For commercial or industrial driveways, including private roads, the maximum slope of any portion of the driveway shall be 15 percent for any point above the elevation of the roadway, and shall be 8 percent for any point below the elevation of the roadway. The overall average grade shall be less than 12 percent along the entire length of the driveway. The maximum grade change in any given 10 feet of driveway shall be 8 percent for a crest situation and 12 percent for a sag situation.

[graphics to be provided]

K. Fences and Walls. In any residential zone, a sight obscuring fence or wall, not exceeding six (6) feet in height, may be located or maintained within the required interior yards, except where the requirements of vision clearance apply. Such fences or walls may be placed in front or sideyards abutting a street, provided such fences or walls do not exceed three and one-half (3.5') feet in height. Non-sight obscuring fences of six (6') feet or less in height may be erected within any required yard.

L. Front Yard Fence and Wall Waivers. Waiver of the front and side yard (3.5') fence provisions may be sought by letter to the Planning Commission by any person who proves he can provide equal aesthetic qualities by other means. The Planning Commission shall consider such application on the basis of aesthetic value of the substitute plan. The substitute plan must:

(1) Provide adequate vision clearance for automobiles, both those passing on the street and those leaving the development site;

(2) Include landscaping;

(3) Not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.

(Section 25, as amended by Ordinance No. 3428, passed May 2, 1989.)

SECTION 26. LOT COVERAGE. The lot coverage allowable for roofed structures on residential lots shall be as follows:

A. Low Density Residential (R-1) Zone:	35%
B. Medium Density Residential (R-2) Zone:	40%
C. High Density Residential (R-3) Zone:	45%

SECTION 27. BUILDING HEIGHT. Building heights in residential zones shall not exceed the following:

- A. Low Density Residential (R-1) Zone: 30 feet or 2 stories
- B. Medium Density Residential (R-2) Zone: 40 feet or 3 stories
- C. High Density Residential (R-3) Zone: 50 feet or 5 stories

D. Exceptions to Height limits. The height limits of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, aerials, solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device.

SECTION 28. NEIGHBORHOOD COMMERCIAL USES. Neighborhood Commercial Uses are intended to provide for a concentration of a limited range of commercial uses needed to meet the daily convenience shopping and service needs of residents in the immediate area, rather than large stores of a supermarket nature, or uses designed to serve the entire City or larger market area. Such uses should be provided, whenever possible, in a business island, rather than on several sites scattered throughout the neighborhood, or in strip developments. Neighborhood Commercial uses shall comply with the following standards:

A. Uses Allowed. The City Planner shall determine if a particular use is allowable as a Neighborhood Commercial use based on the statement of intent above. The City Planner's decision may be appealed to the Planning Commission as set forth in Section 156 of this Ordinance.

B. Building Design. A Neighborhood Commercial use shall not exceed the building height, lot coverage or setback regulations of the zone in which it is located.

C. Minimum Lot Size. A Neighborhood Commercial use shall occupy a site of not less than 10,000 square feet.

D. Hours of Operation. Neighborhood Commercial uses shall operate no earlier than 7:00 a.m. nor later than 8:00 p.m. unless otherwise approved by the Planning Commission.

E. Signs. Ordinance No. 2775 (Sign Code) requires a Conditional Sign Permit for a principal Neighborhood Commercial sign.

F. Parking. Neighborhood Commercial uses shall comply with the parking, landscaping and other provisions of Sections 119-122 of this Ordinance.

(Section 28, as amended by Ordinance No. 3305 passed August 21, 1984; Ordinance No. 3343, passed November 5, 1985; and Ordinance No. 3453, passed February 20, 1991.)

SECTION 29. HOME OCCUPATIONS.

A. Purpose. It is the purpose of this section to:

- (1) Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal/family income;
- (2) Protect residential areas from potential adverse impacts of activities defined as home occupations;
- (3) Establish criteria and development standards for the use of residential structures or dwelling units for home occupations.

B. General Requirements and Criteria. All Home Occupations shall require a Conditional Use permit, and must comply with the following additional criteria and standards:

(1) Home Occupations shall not occupy more than twenty-five (25%) percent of the total floor area of the residence. In no event shall such occupancy exceed four hundred (400) square feet, nor shall an accessory building for such home occupation exceed four hundred (400) square feet, nor shall the total floor area in the residence and/or accessory building exceed four hundred (400) square feet.

(2) Any occupation which may produce waste products of a quality or quantity not normally associated with residential use shall not qualify as a home occupation.

(3) Home occupations shall comply with all other local, state, or federal regulations pertinent to the activity pursued, and the requirements or permission granted or implied by this section shall not be construed as an exemption from such regulations. Such regulations include building and fire codes enacted to protect the applicant and surrounding property owners from hazardous conditions. State or local officials may inspect home occupations to ensure fire and life safety codes are met.

(4) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any electrical equipment, radio or television receivers off the premises or causes fluctuations in the line voltages off the premises. On-site repair or assembly of vehicles or equipment with internal combustion engines (such as autos, chain saws, boat engines) or of large equipment (such as home appliances) is prohibited.

(5) Home occupation signs shall be flush-mounted on the main residential structure, be unlit, and shall not exceed two (2) square feet in area. Such signs shall be made of nonflashing, nonreflective materials, and the legend shall show only the name of the occupant and the type of occupation. Colors shall be consistent with residential character.

(6) Exterior structural alterations or additions or the use of accessory buildings for home occupations shall be designed and built as to maintain or preserve the residential character of the premises. In no event shall such structural alterations or additions exceed the development standards permitted for structures in the zoning district in which the premises are located.

(7) No materials or commodities shall be delivered to or from the property which are of bulk or quantity to require delivery by a commercial vehicle or trailer, except such vehicles as a UPS, postal service truck, or similar vehicle containing no more than two (2) axles.

(8) Parking of customers', employees', or clients' vehicles shall create no hazard or unusual congestion.

(9) Off-street parking spaces shall not be reduced in size or number, below the minimum required in the district, nor used for any purpose other than parking. Parking of vehicles having three (3) axles or more or pieces of heavy equipment such as construction equipment on the premises or in the public right-of-way in the conduct of the home occupation is prohibited.

(10) When merchandise, materials, or equipment is stored or displayed, such storage shall be entirely within the residential structure, or in an accessory building. In no event shall storage or display be permitted on any exterior portion of the premises.

(11) Employment of more than two (2) persons who are not bona fide residents of the premises is prohibited.

(12) The home occupation shall not be used as a headquarters for the assembly of employees for instructions or other purposes or for the dispatch of employees for work at the other locations.

(13) Clients, employees or customers may visit the site only between the hours of 7:00 a.m. and 8:00 p.m. (including deliveries).

(14) Applicants should be aware of any deed restrictions or covenants in effect in a subdivision. It shall be the sole responsibility of the applicant to research said deed restrictions or covenants and determine if they prohibit or regulate home occupations.

C. Procedure. The City Planner may grant a conditional use permit for a home occupation as follows:

(1) The City shall ascertain whether a home occupation is contemplated by the applicant at the time of the submission of the business license. If such a home occupation is contemplated by the applicant, then the applicant shall be immediately notified of the permit requirements, and the fees in writing.

(2) Upon receipt of business license application for a business to be conducted in a dwelling, the City Planner shall make a determination if the proposed use constitutes a Home Occupation pursuant to this Ordinance. The applicant shall submit sufficient information to the City Planner from which the City Planner can make a determination. The City Planner shall make a determination within 10 working days of the receipt of the business license application. If the City Planner determines that the activity is not a Home Occupation as defined by this Ordinance, the City Planner shall note zoning approval on the business license application. All City Planner determinations are subject to appeal (at no charge) to the Planning Commission pursuant to Section 156 of this Ordinance.

(3) Upon determining that a proposed home business is a Home Occupation, the City Planner shall determine whether to approve a conditional use permit for the business or refer the application to the Planning Commission for a hearing. The applicant shall pay the applicable filing fee set forth in Section 160 of this Ordinance at this time.

(4) Notice to Property Owners. Should the City Planner decide to grant a home occupation permit, notice of the proposed home occupation approval and the proposed findings of fact and conclusions of law shall be mailed within two (2) working days of the City Planner's decision to all owners of property within two hundred fifty (250') feet of the subject property, and comments solicited. If written objections to the proposed home occupation are received within ten (10) days by the City Planner, a public hearing shall be held according to Section 161 of this Ordinance. Upon approval of the City Planner and/or the Planning Commission, the applicant may operate the business unless the permit is denied by a later City decision under this Ordinance. If a public hearing is required, the applicant shall pay the difference between the administrative review with notice fee and the Planning Commission hearing fee set forth in Section 160 of this Ordinance at this time. If no objections to the home occupation are received, the decision shall become final and effective at the end of the ten (10) day period.

(Section 29, as amended by Ordinance No. 3453, passed February 20, 1991; and Ordinance No. 3529, passed December 19, 1995.)

SECTION 30. MANUFACTURED HOME & VACATION TRAILER PARKS.

A. Purpose. It is the purpose of this section to regulate manufactured home and vacation trailer parks in the interest of public health, safety, and general welfare; by establishing minimum standards governing the location, construction, and maintenance of facilities required within such parks.

B. Location - Permits.

(1) Manufactured home and vacation trailer parks are allowed in the Class A and Class B Manufactured Housing Subdistrict subject to the Conditional Use regulations of this Ordinance. Vacation trailer parks are also allowed in the C-2, Tourist Commercial zone as an outright use and in the Service Commercial C-3, and M-1, Light Industrial zones conditionally. (Manufactured home subdivisions are regulated by the provisions of the subdivision ordinance, and are limited to the Class A and Class B Manufactured Housing Subdistrict.)

(2) In addition to zoning approval, such parks shall be subject to permits as required by the Uniform Building, Plumbing, Electrical, and Mechanical Codes, and any other permits, regulations, or policies within the jurisdiction of the State Health Division and State Department of Commerce, Building Codes Division.

C. Site Plan Contents. To apply for a Conditional Use permit, in accordance with Article XIX of this Ordinance, the following items shall be indicated on the site development plan:

(1) Area and dimensions of the tract of land, with scale, date, north arrow, property owner and engineer or architect that prepared the plan;

(2) Dimensions and location of all numbered park spaces;

(3) Location, width, and design of all roadways, walkways, park areas, and sidewalks;

(4) Location, size, and design of service buildings, refuse stations, storage facilities, grouped mail box facilities, and recreation facilities, (if required);

(5) Location of proposed underground utility lines, (with point of connection to public lines), street lights, fire hydrants, and signage;

(6) Design of landscaped areas and open spaces (with irrigation plan);

(7) Design of typical space improvements, designation of spaces for either manufactured home or vacation trailer usage;

(8) Proposed park rules and regulations.

(Section 30, as amended by Ordinance No. 3363, passed March 3, 1987; Ordinance No. 3428, passed May 2, 1989; Ordinance No. 3428, passed January 6, 1998, and Ordinance No. 3706, passed May 18, 2004.)

SECTION 31. MANUFACTURED HOME CLASSES. For purposes of this ordinance, manufactured homes are divided into the following types.

A. A Class A Manufactured Home shall:

(1) Be multi-sectional "A double wide" or wider, and enclose a floor area of not less than 1,000 square feet;

(2) Be placed on an excavated and back-filled foundation, enclosed at the perimeter with no more than twelve (12") inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than twelve (12") inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, the twelve (12") inch limitation will not apply;

(3) Have a pitched roof with a nominal pitch of three (3') feet in height for each twelve (12') feet in width;

(4) [Reserved]

(5) 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 O.R.S. 455.010. Evidence demonstrating that the manufactured home meets "Super Good Cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturers certification shall not be required;

(6) Have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City;

(7) Not be cited adjacent to any structure or within any district designated by the Pendleton Comprehensive Plan as historic.

B. A Class B Manufactured Home shall:

(1) Have more than eight hundred forty (840) square feet of occupied space in a single, double, or multi-section unit;

(2) Be placed onto a permanent foundation with enclosed perimeter or support system with skirting as specified in Section 32 of this ordinance;

(3) Have wheels, axles, and hitch mechanisms removed;

(4) [Reserved]

(5) Be manufactured within the current or previous three calendar years (at the time of installation permit application) if a single wide and within the current or previous six calendar years if a double wide or wider, unless otherwise approved by the Planning Commission through a variance procedure;

(6) Have siding material of a type customarily used on site-constructed residences (see list of approved materials in Section 32 of this ordinance);

(7) Have a pitched roof with roofing material of a type customarily used on site-constructed residences (see list of approved materials in Section 32 of this ordinance);

(8) Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.

C. A Class C Manufactured Home shall:

(1) Have more than seven hundred and twenty (720) square feet of occupied space in a single, double, expando, or multi-section unit (including those with add-a-room units);

(2) Be placed onto a permanent foundation with enclosed perimeter or support system in accordance with approved installation standards as specified in Section 32 of this ordinance;

(3) Be enclosed with foundation siding/skirting in accordance with approved installation standards as specified in Section 32 of this ordinance;

(4) Have utilities connected in accordance with manufacturer's specifications and Oregon Department of Commerce requirements;

(5) Bear an insignia of compliance with the Manufactured Housing Construction and Safety Standards Code as of June 15, 1976.

(6) Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.

D. A Class D Manufactured Home is any such unit built prior to June 15, 1976, and under ORS Chapter 481 is not defined as a recreation vehicle. For purposes of determining appropriateness for placement, Class D Manufactured Homes shall:

(1) Have more than three hundred and twenty (320) square feet of occupied space;

(2) Be placed onto a permanent foundation with enclosed perimeter or support system in accordance with approved installation standards as specified in Section 32 of this ordinance;

(3) Be enclosed with foundation siding/skirting in accordance with approved installation standards as specified in Section 32 of this ordinance;

(4) Have utilities connected in accordance with manufacturer's specifications and Oregon Department of Commerce requirements.

(5) Be in good repair and free of structural, electrical, mechanical, and plumbing defects, any of which must be corrected prior to placement.

(Section 31, as added by Ordinance No. 3363, passed March 3, 1987; amended by Ordinance No. 3440 passed March 20, 1990; Ordinance No. 3486, passed May 18, 1993; Ordinance No. 3494, passed December 7, 1993; and Ordinance No. 3575, passed January 6, 1998.)

SECTION 32. MANUFACTURED HOME INSTALLATION/DESIGN STANDARDS.

A. Permanent Foundation with Enclosed Perimeter. A Class A manufactured home requiring a permanent foundation with perimeter enclosure must be set onto an excavated area, with foundations, footings and crawl space or basement walls constructed in accordance with Oregon Department of Commerce Standards. The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

B. Support System with Skirting. All Class B, C and D manufactured homes without a permanent foundation and perimeter enclosure shall have an approved support system with skirting enclosing the entire perimeter of the home. Skirting and back-up framing shall be weather-resistant, non-combustible or self-extinguishing materials, which blend with the exterior siding of the home. Below grade level and for a minimum distance of six (6") inches above finish grade, the materials shall be unaffected by decay or oxidation. The skirting shall be installed in accordance with manufacturer's recommendations or approved equal standards.

The skirting shall be ventilated by openings, which shall be a net area of not less than one and one-half (12) square feet for each twenty-five (25) linear feet of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not larger than one half (2) inch in any dimension. The underfloor area shall be provided with an eighteen (18") inch by twenty-four (24") inch minimum size access crawl hole, which shall not be blocked by pipes, ducts, or other construction interfering with the accessibility of the underfloor space, or other approved access mechanism.

C. Siding for Class A and Class B Manufactured Homes. The following siding materials are approved for usage on Class A and Class B manufactured homes:

(1) Residential horizontal aluminum lap siding,

(2) Residential horizontal vinyl lap siding,

(3) Cedar or other wood siding,

(4) Wood grain, weather resistant, press board siding,

(5) Stucco siding,

(6) Brick or stone siding

(7) Other approved siding materials which are aesthetically compatible.

D. Roofing for Class A and Class B Manufactured Homes. The following roofing materials are approved for usage on Class A and Class B manufactured homes:

- (1) Asbestos shingles on a roof pitched according to the design specifications of the shingles,
- (2) Fiberglass shingles on a roof pitched according to the design specifications of the shingles,
- (3) Shake shingles on a roof pitched according to the design specifications of the shingles,
- (4) Asphalt shingles on a roof pitched according to the design specifications of the shingles,
- (5) Tile materials on a roof pitched according to the design specifications of the tiles,
- (6) Other approved roofing materials which are aesthetically compatible.

E. [Reserved]

F. Summary of Placement Standards.

(1) As defined in Section 31 of this ordinance, all manufactured homes shall be classified as Class A, B, C or D and shall be permitted as follows:

- a. Class A - Permitted outright in the Class A and Class B Manufactured Housing Subdistricts, conditionally as a caretaker dwelling, and allowed in manufactured home parks and subdivisions (which themselves require a conditional use permit:)
- b. Class B - Permitted outright in the Class B Manufactured Housing Subdistrict, conditionally as a caretaker dwelling and allowed in manufactured home parks and subdivisions (which themselves require a conditional use permit;)
- c. Class C - Permitted conditionally as a caretaker dwelling, and allowed in manufactured home parks existing before the adoption of this Ordinance.
- d. Class D - permitted conditionally as a caretaker dwelling and in manufactured home parks existing before the adoption of this Ordinance.

(2) The Planning Commission shall consider a variance to replace a nonconforming manufactured home only if the replacement home is of an equal or higher classification. In reviewing such variances, the Planning Commission shall follow the variance criteria of Section 138 of this Ordinance, paying particular attention to the age, condition and assessed value of surrounding structures.

(3) No manufactured home shall be permitted in any National Register Historic District.

(4) No pieces of equipment, furniture, appliances (excepting lawn furniture and fuel storage units) be allowed on the property outside the manufactured home unless it is within an enclosed structure approved by the Commission; so long as the property is used as a manufactured home site.

(5) Proof of compliance with the Manufactured Housing Construction and Safety Standards Code of June 15, 1976, for manufactured homes built prior to that date, shall consist of a written verification of compliance from a State of Oregon certified manufactured housing inspector.

(Section 32 as added by Ordinance No. 3363, passed March 3, 1987; amended by Ordinance No. 3428, passed May 2, 1989; Ordinance No. 3440, passed March 20, 1990; Ordinance No. 3575, passed January 6, 1998, and Ordinance No. 3706, passed May 18, 1996.)

[SECTION 33 Reserved for Expansion.]

ARTICLE VI. COMMERCIAL ZONES

CENTRAL COMMERCIAL ZONE (C-1)

SECTION 34. DESCRIPTION AND PURPOSE. To provide for land areas and uses that preserve and enhance the City's core area, within which will occur the greatest concentration of retail and business activity.

SECTION 35. USES PERMITTED OUTRIGHT. In the Central Commercial (C-1) zone, the following uses and their accessory uses are permitted outright, except as provided in Section 45 of this Ordinance:

- A. Automobile and vehicle dealers, repairs, services, and service stations (SIC Major Groups 55, and 75, except 752), except within the "Central Area Parking District";
- B. Business and Personal Service (SIC Major Groups 472, 72, 73, 76 (except 769), and 89);
- C. Commercial Amusement and Recreation (SIC Major Groups 78 and 79);
- D. Communication Facilities (SIC Major Group 48);
- E. Residential uses (including Class A and Class B Manufactured Homes), or residential facility, outside the "Central Area Parking District", subject to the condition that:
 - (1) Housing development shall not exceed more than 160 dwelling units per gross acre;
 - (2) Primary access shall be via a collector or arterial street (as designated in the Comprehensive Plan) that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission;

(3) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm sewer to serve the development shall be totally at the expense of the developer and consistent with applicable City policies and ordinances;

(4) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;

(5) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirements of Sections 119-121 of this Ordinance) prior to issuance of a building permit. One (1) off-street parking space per residential unit shall be required; said spaces being located no more than 250 feet from the building they serve. All private off-street parking locations shall be approved by the Planning Commission;

F. Residential uses (including Class A and Class B Manufactured Homes) or residential facility within the "Central Area Parking district", but does not occupy space on the ground floor;

G. Eating and Drinking Establishments, Food Stores (SIC Major Groups 54 and 58);

H. Financial, Law, Insurance, and Real Estate Offices (SIC Major Groups 60, 61, 62, 63, 64, 65, 67, and 81);

I. General Retail (SIC Major Groups 53, 56, 57, 59 (except 598), and Groups 523 and 525);

J. Governmental, public or semi-public use or structure--including, but not limited to: (SIC Major Groups 43, 91, 92, 93, 94, 95, 96, and 97);

K. Health Services (SIC Major Group 80, except 806);

L. Hotels, Boarding and Rooming Houses (SIC Major Group 70, except 703);

M. Membership Organizations (SIC Major Group 86);

N. Parking Area and garage, public or private (SIC Group 752);

O. Printing and Publishing (SIC Major Group 27);

P. Transit Facilities (SIC Major Group 41).

(Section 35, as amended by Ordinance No. 3440, passed March 20, 1990, Ordinance No. 3652, passed September 4, 2001, and Ordinance No. 3657, passed January 15, 2002.)

SECTION 36. CONDITIONAL USES PERMITTED. In the Central Commercial (C-1) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

A. Automobile and vehicle dealers, repairs, services, and service stations (SIC Major Groups 55 and 75, except 752); within the "Central Area Parking District".

B. Building Materials, retail (SIC Major Group 52, except 523 and 525);

C. City Park;

D. Contractors (SIC Major Groups 15 and 17);

E. Dwelling, caretaker or manager only;

F. Residential uses (including Class A and Class B Manufactured Homes) within the Central Parking District, or residential facility, subject to the condition that:

(1) Housing development shall not exceed more than one hundred sixty (160) dwelling units per gross acre;

(2) The use does not occupy space above a permitted ground floor use;

(3) Primary access shall be via a collector or arterial street (as designated in the Comprehensive Plan) that is improved or will be improved to City standards prior to occupancy of any unit, unless approved by the Planning Commission;

(4) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use approved by the Planning Commission (subject to the requirements of Sections 119-121 of this Ordinance) prior to issuance of a building permit. One (1) off-street parking space per residential unit shall be required; said spaces being located no more than 250 feet from the building they serve. All private off-street parking locations shall be approved by the Planning Commission;

G. Educational Services (SIC Major Group 82);

H. Hospitals (SIC Major Group 806)

I. Museums, Art Galleries, Zoos (SIC Major Group 84);

J. Social Service Organizations (SIC Major Group 83);

K. Transportation Services (SIC Major Group 40, 42, 4783, 49).

(Section 36, as amended by Ordinance No. 3440, passed March 20, 1990, Ordinance No. 3652, passed September 4, 2001, Ordinance No. 3657, passed January 15, 2002, and Ordinance No. 3704, passed June 15, 2004)

TOURIST COMMERCIAL ZONE (C-2)

SECTION 37. DESCRIPTION AND PURPOSE. To provide areas suitable for motels, restaurants, service stations, and other similar uses for the accommodation of tourists and travelers.

SECTION 38. USES PERMITTED OUTRIGHT. In a Tourist Commercial (C-2) zone, the following uses and their accessory uses are permitted outright, except as provided in Section 45 of this Ordinance.

- A. Dwelling, for caretaker or manager only;
- B. Eating and Drinking Establishments (SIC Major Group 58);
- C. Hotels, Motels, other lodging (SIC Major Group 70);
- D. Service Station (SIC Group 554), Auto Repair, Services, and Garages (SIC Major Group 75);
- E. Tourist Information Center.

(Section 38, as amended by Ordinance No. 3657, passed January 15, 2002.)

SECTION 39. CONDITIONAL USES PERMITTED. In a Tourist Commercial (C-2) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

- A. Transit Facilities (SIC Major Group 41).
- B. Transportation & Utility Services (SIC Major Groups, 42 and 49).

(Section 39, as amended by Ordinance No. 3657, passed January 15, 2002.)

SERVICE COMMERCIAL ZONE (C-3)

SECTION 40. DESCRIPTION AND PURPOSE. To provide areas for retail and service uses that are accessible to the entire community.

SECTION 41. USES PERMITTED OUTRIGHT. In a Service Commercial (C-3) zone, the following uses and their accessory uses are permitted outright, except as provided in Section 45 of this Ordinance:

- A. Auto Repair, Services, and Garages (SIC Major Groups 50 and 75);
- B. Business and Personal Services (SIC Major Groups 472, 72, 73, 76 except 769, and 89);
- C. Commercial Amusement and Recreation (SIC Major Groups 78 and 79);
- D. Contractors (SIC Major Groups 15 and 17);
- E. Dwelling, multi-family, or residential facility, subject to the condition that:
 - (1) Housing development shall not exceed eighty (80) dwelling units per gross acre;
 - (2) The use occupies space above a permitted ground floor use;
 - (3) The primary access shall be via a collector or arterial street (as designated in the Comprehensive Plan) that is improved or will be improved to City standards prior to occupancy of any unit, unless approved by the Planning Commission;
 - (4) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm sewer to serve the development shall be totally at the expense of the developer and consistent with applicable City policies and ordinances;
 - (5) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;
 - (6) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirements of Sections 119-121 of this Ordinance) prior to issuance of a building permit. One (1) off-street parking space per residential unit shall be required; said spaces being located no more than 250 feet from the building they serve. All private off-street parking locations shall be approved by the Planning Commission;
- F. Eating Establishment and Food Stores (SIC Major Group 54 and 5812);
- G. Financial, Law, Insurance, and Real Estate Offices (SIC Major Groups 60, 61, 62, 63, 64, 65, 66, 67, and 81);
- H. General Retail (SIC Major Groups 52, 53, 55 except 554, 56, 57, and 59 except 598);
- I. Health Services (SIC Major Group 80 except 806);
- J. Transit Facilities (SIC Major Group 41); (Section 41, as amended by Ordinance No. 3440, passed March 20, 1990, Ordinance No. 3657, passed January 15, 2002.)

SECTION 42. CONDITIONAL USES PERMITTED. In the Service Commercial (C-3) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

- A. Communication Facilities (SIC Major Group 48);
- B. Drinking Establishments (SIC code 5813);

- C. Dwelling, caretaker or manager only;
 - D. Dwelling, multi-family, or residential facility, subject to the condition that:
 - (1) Housing development shall not exceed eighty (80) dwelling units per gross acre;
 - (2) The use does not occupy space above a permitted ground floor use;
 - (3) The primary access shall be via a collector or arterial street (as designated in the Comprehensive Plan) that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission;
 - (4) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm sewer to serve the development shall be totally at the expense of the developer and consistent with applicable City policies and ordinances;
 - (5) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;
 - (6) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirement of Sections 119-121 of this Ordinance) prior to issuance of a building permit. One (1) off-street parking space per residential unit shall be required; said spaces being located no more than 250 feet from the building they serve. All private off-street parking locations shall be approved by the Planning Commission;
 - E. Educational Services (SIC Major Group 82);
 - F. Governmental, public or semi-public use or structures--including, but not limited to: SIC Major Groups 43, 91, 92, 93, 94, 95 and 96;
 - G. Hospitals (SIC 806);
 - H. Hotels, Motels, Mobile Home Parks, other lodging (SIC Group 70);
 - I. Membership Organizations (SIC Major Group 86);
 - J. Museums, Art Galleries, Zoos (SIC Major Group 84);
 - K. Printing and publishing (SIC Major Group 27);
 - L. Railroad Facilities (SIC Major Group 40);
 - M. Service Station (SIC Group 554);
 - N. Social Service Organizations (SIC Major Group 83);
 - O. Transportation Service (SIC Major Groups 47, except 472, and 49);
 - P. Warehousing, motor freight (SIC Major Group 42).
- (Section 42, as amended by Ordinance No. 3276, passed September 27, 1983; and Ordinance No. 3440, passed March 20, 1990, and Ordinance No. 3657, passed January 15, 2002.)

ARTICLE VII. GENERAL PROVISIONS FOR COMMERCIAL ZONES

SECTION 43. LOT SIZE. In the Commercial zoning districts, there shall be no minimum lot size.

SECTION 44. YARDS. No yards shall be required in commercial zones, except when the property abuts or is less than sixty (60') feet from a residential zone, in which case the same yards shall be required as those in the abutting zone. The use of landscaped areas may be required by the Planning Commission to buffer commercial uses from residential uses.

SECTION 45. LOT COVERAGE. There shall be no maximum lot coverage regulations for commercial zones; however, the construction of any commercial building over 25,000 square feet shall require authorization by the Planning Commission under the conditional use provisions of Sections 131-137 of this Ordinance, even if the use is permitted outright.

SECTION 46. BUILDING HEIGHT. The maximum allowable height of buildings in the commercial zones shall be as follows:

- A. Central Commercial: No limit;
- B. Tourist Commercial: 50 feet or 5 stories;
- C. Service Commercial: 50 feet or 5 stories.

Exceptions to Height Limits. The height limits of this Ordinance shall not apply to church spires, belfries, cupolas and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, aerials, solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device.

SECTION 47. FENCES. In a commercial zoning district, fences or walls not to exceed eight (8) feet in height may be located or maintained in any yard, except where the requirements of vision clearance apply. Any fence over six (6') feet in height requires a building permit.

SECTION 48. FUEL STORAGE TANK (ABOVE GROUND). Above ground fuel storage tanks, as defined by this Ordinance shall be located so that no portion of the tank is closer to a property line or building than stated below:

0 - 275 gallons	-	10 foot setback
276 - 750 gallons	-	15 foot setback
751 - 6000 gallons	-	25 foot setback

Said tanks shall also comply with all applicable local and state fire codes. Installation and dispensing permits shall be required from the Pendleton Fire Marshal and Oregon State Fire Marshal. Tanks with a capacity exceeding 6000 gallons shall be considered a bulk plant or tank farm and shall require a conditional use permit.

(Section 48, as added by Ordinance No. 3428, passed May 2, 1989.)

SECTION 49. DRIVEWAYS. In order to improve the access and safety of freight hauling, driveways outside of the downtown area, shall be constructed in accordance with the graphic in Section 25. (Section 49, as added by Ordinance No. 3745, passed June 19, 2007)

[SECTIONS 50 Reserved for Expansion.]

ARTICLE VIII. INDUSTRIAL ZONES

LIGHT INDUSTRIAL ZONE (M-1)

SECTION 51. DESCRIPTION AND PURPOSE. Except as modified in Sections 58-60, to provide, enhance and protect areas to accommodate a wide range of manufacturing and allied uses that need generally flat topography and easy access to arterials and intermodal shipping facilities, and to reserve industrial sites near the airport for specific employment uses identified in the Pendleton Economic Opportunities Analysis (EOA).

(Section 51, as amended by Ordinance No. 3760, passed October 16, 2007.)

SECTION 52. USES PERMITTED OUTRIGHT. In a Light Industrial (M-1) zone, the following uses and their accessory uses are permitted outright:

- A. Air Transportation Facilities (SIC Major Group 45);
- B. Automobile and vehicle dealers, repairs, services and service stations (SIC Major Groups 55 and 75);
- C. Building Materials, retail (SIC Major Group 52);
- D. Business Services (SIC Major Groups 73 and 89);
- E. Communication Facilities (SIC Major Group 48);
- F. Contractors (SIC Major Groups 15 and 17);
- G. Light Industrial (SIC Major Groups 20 except 2077, 22, 23, 24, 26 except 261, 27, 282, 283, 284, 307, 31, 36, 37, 38 and 39);
- H. Repair Services (SIC Major Group 76);
- I. Transportation Facilities and Services (SIC Major Groups 40, 41, 42 and 47);
- J. Wholesaling (SIC Major Groups 50 and 51).
- K. Solid Waste Transfer Stations, if the solid waste transfer station:
 - (1) Is not within 1,000 feet of an existing residential structure or residential zone, or
 - (2) The location of the transfer station has been approved by a vote of the people approving the facility.

(Section 52, as amended by Ordinance No. 3305, passed August 21, 1984; Ordinance No. 3363, passed March 3, 1987; Ordinance No. 3428, passed May 2, 1989; and Ordinance No. 3518, passed June 20, 1995.)

SECTION 53. CONDITIONAL USES PERMITTED. Except as modified in Sections 58-60, in a Light industrial (M-1) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

- A. Commercial Amusement and Recreation (SIC Major Group 79);
- B. Eating and Drinking Establishments (SIC Major Group 58);
- C. Fuel and Ice Dealers (SIC Group 598);
- D. Governmental, public, or semi-public uses or structure, including, but not limited to SIC Major Groups 43, 91, 92, 93, 94, 95 and 96;
- E. Hotels, motels, other lodging (SIC Major Group 70);
- F. Junk yard, wrecking yard;

- G. Light Industrial (SIC Major Groups 281, 285, 286, 287, and 289);
- H. Mining (SIC Major Group 14);
- I. Petroleum pipeline facilities;
- J. Sanitary landfills, solid waste disposal or treatment facilities;
- K. Transportation Equipment (SIC Major Group 37);
- L. Utilities (SIC Major Group 49);
- M. Horticultural Services (SIC Groups);
- N. Social Services (SIC Major Group 83);
- O. Dwelling, Caretaker or Manager Only. This use is subject to the condition that this use not result in the application of any ordinance, charter provision, or other regulation that would limit, hinder, or prevent the continued operation of any preexisting use.
- P. Animal Clinic, Kennel, or Hospital

(Section 53, as amended by Ordinance No. 3276, passed September 27, 1983; Ordinance No. 3305, passed August 21, 1984; Ordinance No. 3428, passed May 2, 1989; Ordinance No. 3518, passed June 20, 1995; Ordinance No. 3584, passed June 2, 1998; Ordinance No. 3660, passed February 5, 2002, Ordinance No. 3698, passed May 4, 2004, Ordinance No. 3706, passed May 18, 2004, and Ordinance No. 3760, passed October 16, 2007)

HEAVY INDUSTRIAL ZONE (M-2)

SECTION 54. DESCRIPTION AND PURPOSE. To provide, enhance, and protect areas to accommodate a wide range of manufacturing and allied establishments located away from residential and commercial uses to avoid inherent incompatibilities, but adjacent to or near major transportation facilities.

SECTION 55. USES PERMITTED OUTRIGHT. In a Heavy Industrial (M-2) zone, the following uses and their accessory uses are permitted outright:

- A. Contractors (SIC Major Groups 15-17);
 - B. Fuel and Ice Dealers (SIC Major Group 598);
 - C. Light Industrial (SIC Major Groups 20, 22-25, 27, 31, 36, 37, 38, 39).
 - D. Heavy Industrial (SIC Major Groups 26, 34 except 348, and 35).
 - E. Transportation Facilities and Services (SIC Major Groups 40, 41, 42, 46, and 47);
 - F. Wholesaling (SIC Major Groups 50 and 51);
 - G. Solid Waste Transfer Stations, if the solid waste transfer station:
 - (1) Is not within 1,000 feet of an existing residential structure or residential zone, or
 - (2) The location of the transfer station has been approved by a vote of the people approving the facility.
- (Section 55, as amended by Ordinance No. 3518, passed June 20, 1995, and Ordinance No 3698, passed May 4, 2004.)

SECTION 56. CONDITIONAL USES PERMITTED. In a Heavy Industrial (M-2) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

- A. Governmental, public, or semi-public use or structure, including, but not limited to SIC Major Groups 43, 91, 92, 93, 94, 95 and 96;
- B. Heavy Industrial (SIC Major Groups 28, 29, 30, 32, 33 and Group 348);
- C. Junk yard, wrecking yard;
- D. Mining (SIC Major Group 14);
- E. Utilities (SIC Major Group 49);
- F. Social Services (SIC Major Group 83);
- G. Dwelling, Caretaker or Manager Only. This use is subject to the condition that this use not result in the application of any ordinance, charter provision, or other regulation that would limit, hinder, or prevent the continued operation of any preexisting use.
- H. Animal Clinic, Kennel, or Hospital..

(Section 56, as amended by Ordinance No. 3305, passed August 21, 1984; Ordinance No. 3518, passed June 20, 1995; Ordinance No. 3584, passed June 2, 1998; Ordinance No. 3660, passed February 5, 2002, Ordinance No. 3698, passed May 4, 2004, and Ordinance No. 3706, passed May 18, 2004.)

ARTICLE IX. GENERAL PROVISIONS FOR INDUSTRIAL ZONES

SECTION 57. DEVELOPMENT PARAMETERS.

Except as modified by Section 58-60, the following development standards apply within the M1 and M2 industrial zones:

- A. Lot size. In the Industrial Zones, minimum lot sizes shall be as set forth on Figure 8 of this Ordinance.
- B. Yards. No yards shall be required in industrial zones, except when the property abuts or is less than sixty (60') feet from a residential zone, in which case the same yards shall be required as those in the abutting zone. The provision of landscaped areas may be required by the Planning Commission to buffer industrial uses from residential and commercial uses unless topographical or other circumstances make such buffering impractical.
- C. Lot Coverage. There shall be no maximum lot coverage regulations for industrial zones.
- D. Point of access from a public street to properties in an Industrial Zone shall be located so as to minimize traffic congestion and avoid directing traffic onto residential streets;
- E. Landscaping and screening. Landscape material or architectural screens shall be used to conceal from public view those areas used for parking, storage, and loading. The height of the material or screens shall be sufficient to obscure the line of vision between an automobile on the street and the parking, storage or loading areas.
- F. Fuel Storage Tank (Above Ground). Above ground fuel storage tanks, as defined by this Ordinance shall be located so that no portion of the tank is closer to a property line or building than stated below:
- | | | |
|--------------------|---|-----------------|
| 0 - 275 gallons | - | 10 foot setback |
| 276 - 750 gallons | - | 15 foot setback |
| 751 - 6000 gallons | - | 25 foot setback |
- Said tanks shall also comply with all applicable local and state fire codes. Installation and dispensing permits shall be required from the Pendleton Fire Marshal and Oregon State Fire Marshal. Tanks with a capacity exceeding 6000 gallons shall be considered a bulk plant or tank farm and shall require a conditional use permit.
(Section 57, as amended by Ordinance No. 3428, passed May 2, 1989, and Ordinance No. 3760, passed October 16, 2007.)

SECTION 58. AIRPORT INDUSTRIAL SUBDISTRICT.

A. Purpose. The Airport Industrial Subdistrict (AI) is intended to reserve designated Light Industrial (M1) sites near the Pendleton Airport for targeted industrial users as called for in the Pendleton Comprehensive Plan (Industrial Plan Table A-AI) and the Pendleton Economic Opportunities Analysis (EOA).

B. Application. This subdistrict applies to the following sites shown on Table 58-AI below:

Table 58-AI. Airport Industrial Subdistrict Sites – Pendleton UGB

Site Name	Gross Acres	Suitable Acres	Site Need	Location / Comment
Site I-A	133	70	General Industrial	Within original UGB; City owned lease-only land N of Barnhart Road Extension
Site I-OE (Pinkerton)	25	15	General Industrial	Within 2001 UGB; <u>north</u> of Barnhart Road Extension
Pinkerton 1-N	160	106	Large Site + General Industrial	West of Stage Gulch Road, North of Barnhart Road Extension
Miller 1-W	42	25	Large Site + General Industrial	Retain to meet general industrial needs; East of Stage Gulch Road, North of Daniel Road

C. Permitted Uses. Permitted uses allowed in the M1 Zone and listed in Section 52 also are allowed in the AI Subdistrict.

D. Conditional Uses. Most conditional uses listed in the M1 zone and listed in Section 52 may be allowed in the AI Subdistrict except: commercial amusement and recreation (SIC Major Group 79); eating and drinking establishments (SIC Major Group 58); hotels, motels, other lodging (SIC Major Group 70); junk yard, wrecking yard; mining (SIC Major Group 14); and animal clinic, kennel, or hospital.

E. Development Parameters. The industrial development standards listed in Section 57 apply in the AI Subdistrict, except that the following industrial sites listed in Industrial Plan Table A shall reserve at least one industrial development area of 50 acres to meet the needs of a major industrial user:

- a. Industrial Site 1-N (Pinkerton); and
- b. Industrial Site 1-W (Miller).

F. Site Plan Review. The site plan for proposed development within the AI Subdistrict shall be reviewed and approval by the Director of Planning and Building prior to the issuance of a building permit for any building or parking area. The site plan shall consider vehicular/truck access and movement, parking, landscaping and fencing or buffering.
(Section 58, as added by Ordinance No. 3760, passed October 16, 2007.)

SECTION 59. BUSINESS PARK SUBDISTRICT (BP).

A. Purpose. The Business Park Subdistrict (BP) is intended to provide for a mix of light industrial, heavy commercial, office and supporting commercial uses in a master planned setting.

B. Application. This subdistrict applies to Airport Site 1-W (owned by the City of Pendleton) identified in Industrial Plan Table A of the Pendleton Comprehensive Plan and shown in Table 59-BP below:

Table 59-BP. Business Park Site – Pendleton UGB

Site Name	Gross Acres	Suitable Acres	Site Need	Location / Comment
Airport 1-W	100	45	Master Planned Business Park	Retain as master planned business park; East of Stage Gulch Road, North of Airport

C. Permitted Uses. The following uses are permitted in the BP Subdistrict:

1. Permitted uses allowed in the M1 Zone and listed in Section 52;
2. Conditional uses allowed in the M1 Zone and listed in Section 53, except for junk and wrecking yards and mining (SIC Major Group 14);
3. Business and Personal Service (SIC Major Groups 472, 72, 73, 76 (except 769), and 89); financial, law, insurance, and real estate offices (SIC Major Groups 60, 61, 62, 63, 64, 65, 67, and 81); health services (SIC Major Group 80, except 806); and parking area and garage, public or private (SIC Group 752).

D. Conditional Uses. The following uses may be permitted through the conditional use process:

1. Educational Services (SIC Major Group 82);
2. Hospitals (SIC Major Group 806);
3. Museums, Art Galleries, Zoos (SIC Major Group 84); and
4. Social Service Organizations (SIC Major Group 83);

E. Development Parameters. Industrial development standards listed in Section 57 also apply within the AIR Subdistrict. In addition, prior to development of land within the BP Subdistrict, the City shall prepare a master development plan. The plan shall be submitted to and approved by the Planning Commission (subject to the requirement of Sections 119-121 of this Ordinance) and shall address the following:

1. Vehicular/truck street access and on-site circulation to serve the needs of a modern business park with multiple uses;
2. Provision of sanitary sewer and water service to the entire site;
3. Landscaping (a minimum of 10% of the developable area of the business park site shall be landscaped); and
4. Airport impacts, as required by Article XI, Airport Hazard Subdistrict.

F. Site Plan Review. The site plan for any proposed development area within the larger BP site shall be reviewed and approval by the Director of Planning and Building prior to the issuance of a building permit for any building or parking area. The site plan shall be consistent with the approved master development plan and shall indicate vehicular access and movement, parking, landscaping and fencing or buffering.

(Section 59, as added by Ordinance No. 3760, passed October 16, 2007.)

SECTION 60. REGIONAL DISTRIBUTION CENTER SUBDISTRICT (RDC)

A. Purpose. The Regional Distribution Center Subdistrict (RDC) is intended to provide a large site for a regional distribution center with direct access to the Barnhart Road Extension.

B. Application. This subdistrict applies to Airport Site 2-S (Pinkerton) and the southern portion of Airport Site I-OE (Pinkerton) identified in Industrial Plan Table A of the Pendleton Comprehensive Plan and shown in Table 60-RDC below:

Table 60-RDC. Regional Distribution Center Sites – Pendleton UGB

Site Name	Gross Acres	Suitable Acres	Site Need	Location / Comment
Pinkerton 2-S	127	125	Regional Distribution Center	South of Barnhart Road Extension; Combine w/ Site I-OE (Pinkerton) for 200-acre site
Site I-OE (Pinkerton)	75	75	Regional Distribution Center	Within 2001 UGB; south of Barnhart Road Extension

C. Permitted Uses. The RC Subdistrict is specifically designated to accommodate a regional wholesale distribution center (SIC Major Groups 50 and 51) that requires a site of at least 50 acres.

D. Conditional Uses. None.

E. Development Parameters. Industrial development standards listed in Section 57 also apply in the RC Subdistrict.

Site Plan Review. The site plan for proposed development within the RDC Subdistrict shall be reviewed and approval by the Director of Planning and Building prior to the issuance of a building permit for any building or parking area. The site plan shall consider vehicular/truck access and movement, parking, landscaping and fencing or buffering.
(Section 60, as added by Ordinance No. 3760, passed October 16, 2007.)

ARTICLE X. AIRPORT ACTIVITIES ZONE (A-A)

SECTION 61. DESCRIPTION AND PURPOSE. To protect the lands lying adjacent to the airport runway and terminal areas from incompatible development, while providing lands for airport-related and agricultural uses.
(Section 61, as amended by Ordinance No. 3760, passed October 16, 2007.)

SECTION 62. USES PERMITTED OUTRIGHT. The following land uses shall be allowed outright in the Airport Activities (A-A) Zone, as identified by Standard Industrial Classification Code:

- A. Aviation Industries - (SIC 2271, 2531, 3357, 3537, 3612, 3547, 3662, 372, 3811);
- B. Aviation Operational Services - (SIC 45, 5088, 5172, 5599, 7629);
- C. Farming and Forestry Activities - (SIC 011, 0721, 0722, 0851);
- D. Freight Services (SIC 471, 4782, 4783);
- E. Passenger Transportation Services (SIC 4111, 472, 58, 5947, 7394);
- F. Public Services (SIC 1382, 7319, 7333, 8999, 91, 9224, 962, 97).

SECTION 63. CONDITIONAL USES PERMITTED. In the Airport Activities (A-A) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

- A. Other uses similar to those listed as outright that, in the opinion of the Planning Commission, will have no greater detrimental effects on adjoining uses.

SECTION 64. DEVELOPMENT STANDARDS.

A. Most of the lands within the Airport Activities Zone are owned by the City of Pendleton. Before construction begins, each use shall receive approval from the Airport Commission, which shall review the use for compliance with this section, Airport Hazard Subdistrict regulations, FAA regulations, and the Airport Master Plan, and decide whether or not to recommend a lease agreement to the City Council.

B. Fuel Storage Tank (Above Ground). Above ground fuel storage tanks, as defined by this Ordinance shall be located so that no portion of the tank is closer to a property line or building than stated below:

0 - 275 gallons	-	10 foot setback
276 - 750 gallons	-	15 foot setback
751 - 6000 gallons	-	25 foot setback

Said tanks shall also comply with all applicable local and state fire codes. Installation and dispensing permits shall be required from the Pendleton Fire Marshal and Oregon State Fire Marshal. Tanks with a capacity exceeding 6000 gallons shall be considered a bulk plant or tank farm and shall require a conditional use permit.

(Section 64, as amended by Ordinance No. 3428, passed May 2, 1989.)

[SECTIONS 65-66 Reserved for Expansion.]

ARTICLE XI. AIRPORT HAZARD SUBDISTRICT (AHZ)

SECTION 67. PURPOSE. This article is adopted pursuant to the authority conferred by Oregon law. It is hereby found that an airport hazard endangers the lives and property of users of the Eastern Oregon Regional Airport at Pendleton and property or occupants of land in its vicinity, that an obstruction may affect existing and future instrument approach minimums at the Eastern Oregon Regional Airport at Pendleton; and that an obstruction may reduce the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Eastern Oregon Regional Airport at Pendleton and the public investment therein. Accordingly, it is declared that:

A. The creation or establishment of an airport hazard is an injury to the region served by the Eastern Oregon Regional Airport at Pendleton;

B. It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and

C. The prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City may raise and expend public funds and acquire land or interests in land.
(Section 67, as amended by Ordinance No. 3485, passed March 2, 1993; and Ordinance No. 3486, passed May 18, 1993.)

SECTION 68. AIRPORT ZONES. In order to carry out the provisions of this Article, there are hereby established and created certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to the Airport. Such zones are shown on the Approach and Clear Zone Plan adopted as part of the city's Airport Master Plan and made a part of this Ordinance by reference. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

A. Visual Runway Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface, its centerline being the continuation of the centerline of the runway.

B. Runway Larger Than Utility with a Visibility Minimum Greater Than: Mile Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

C. Precision Instrument Runway Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands uniformly outward to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

D. Transitional Zones. These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

E. Horizontal Zone. The horizontal zone is hereby established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

F. Conical Zone. The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet. The conical zone does not include the visual approach zones and the transitional zones.

SECTION 69. AIRPORT ZONE HEIGHT LIMITATIONS. No structure or vegetation shall be erected, altered, allowed to grow, or be maintained in any zone created by this Ordinance to a height in excess of the applicable height limitations herein established for such zone as follows:

A. Visual Runway Approach Zone. Slopes upward twenty (20') feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

B. Runway Larger Than Utility with a Visibility Minimum Greater Than: Mile Nonprecision Instrument Approach Zone. Slopes thirty-four (34') feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 20,000 feet along the extended runway centerline.

C. Precision Instrument Runway Approach Zone. Slopes fifty (50') feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40') feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

D. Transitional Zones. Slopes upward and outward seven (7') feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping upward seven (7') feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface.

E. Horizontal Zone. One hundred and fifty (150') feet above the airport elevation.

F. Conical Zone. Slopes upward and outward twenty (20') feet horizontally for each foot vertically beginning at the periphery of the horizontally zone and at one hundred fifty (150') feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

SECTION 70. USE RESTRICTIONS. Notwithstanding any other provisions of this Article, no use shall be made of land or water within any zone established by this Article in such a manner as to create electrical interference with

navigational signals or radio communication between the Airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the Airport, impair visibility in the vicinity of the Airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the Airport.

SECTION 71. NONCONFORMING USES.

A. Regulations not retroactive. The regulations prescribed by this article shall not be construed to require the removal, lowering, or other changes or alteration of any structure or vegetation not conforming with these regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which has begun prior to the effective date of this Ordinance, and is diligently pursued to completion.

B. Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or vegetative growth is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the City of Pendleton indicating to the operators of aircraft in the vicinity of the Airport, the presence of such hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the property owner.

SECTION 72. PERMITS.

A. Future Uses. No material change shall be made in the use of land and no structure or vegetation shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted by the City Council, on recommendation of the Planning Commission.

(1) However, a permit for vegetation or structures of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 1,500 feet from each end of the runway except when such vegetation or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.

(2) Each application for a permit shall indicate the purpose for which the permit is desired with sufficient evidence to determine whether the resulting use, structure, or vegetation would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit may be granted.

B. Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or vegetation to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made.

C. Nonconforming Uses Abandoned or Destroyed. Whenever the City Manager determines that a nonconforming structure or vegetation has been abandoned or more than eighty (80) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or vegetation to exceed the applicable height limit or otherwise deviate from the regulations herein.

D. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any vegetation, or use his property not in accordance with the regulations prescribed herein, may apply to the City Planning Commission for a variance from such regulations. Such variances may be allowed when it is found that a literal application or enforcement of these regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this Ordinance.

E. Hazard Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or vegetation in question, at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

[SECTIONS 73-74 Reserved for Expansion.]

ARTICLE XII. FLOOD HAZARD SUBDISTRICT (F-H)

[SECTIONS 75-84 repealed by Ordinance No. 3690, passed April 20, 2004]

[SECTIONS 85-86 Reserved for Expansion.]

ARTICLE XIII. PRISON/HOSPITAL INDUSTRIAL SUBDISTRICT (P/HIS)

SECTION 87. DESCRIPTION AND PURPOSE. The Prison/Hospital Industrial Subdistrict is intended to insure the appropriate harmonious development of the prime industrial lands that are located in proximity to the Eastern Oregon Correctional Institution and Mental Health facilities. By restricting the types and design of development on this property,

Comment [COMMENT1]:

SECTION 75. PURPOSE. The purpose of the Flood Hazard Subdistrict F-H shall be to comply with the National Flood Insurance Program, promote and protect the public health, safety and general welfare and to minimize flood losses by provisions designed to:
A. . Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause increased flood heights or velocities;
B. . Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction;
C. . Protect individuals from buying lands which are unsuited for some purposes because of flood hazard. (Section 75, as amended by Ordinance N° 3428, passed May 2, 1989.)

SECTION 76. COMPLIANCE. A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used in a Flood Hazard Area only as this Ordinance and the National Flood Insurance Program permits. (Section 76, as amended by Ordinance N° 3428, passed May 2, 1989.)

SECTION 77. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

SECTION 78. LOCATION OF FLOOD HAZARD AREAS.

A. . The boundaries of areas delineated as Flood Hazard Areas in the City of Pendleton shall be the boundaries of those areas within the City limits designated on the Flood Insurance Rate Maps adopted by the Department of Housing and Urban Development Flood Insurance Administration effective February 19, 1987, and revised on July 15, 1988. The boundaries of areas shall also include any future additions to the City to which official Flood Insurance Rate modifications are made thereto, and shall also include, for purposes of jurisdiction under the Pendleton-Umatilla County Joint Management Agreement approved by the Land Conservation and Development Commission, all flood hazard a ... [1]

prison/mental health operations will be protected, while light industrial development is encouraged. (Section 87, as amended by Ordinance No. 3305, passed August 21, 1984.)

SECTION 88. DEVELOPMENT STANDARDS.

A. Uses allowed in the Subdistrict shall be limited to the following, as identified by Standard Industrial Classification Code: 20 (except 2077), 22, 23, 2431, 2434, 245, 25, 26 (except 261), 27, 282, 283, 284, 307, 31 (except 3111), 36, 38, 39, 41, 42, 47, 48. Other buildings and uses similar to the list above which have no greater detrimental effects upon the adjoining uses may be allowed provided that such uses are approved by the Planning Commission.

B. The minimum lot size shall be 2 acres.

C. Site Plan Review and approval by the Director of Planning and Building shall be required prior to the issuance of a building permit. The plan shall include:

- (1) Vehicular/Truck Street Access & On-site Circulation.
- (2) Employee & Visitor Parking Areas.
- (3) Truck Loading and Unloading Areas.
- (4) Railroad Servicing (if part of the business operation).
- (5) Landscaping (trees, shrubs, flower beds, grass areas, etc.).

Any submitted plan shall be reviewed; approved, modified, or disapproved in writing within ten (10) days after submission, otherwise such plan shall automatically be approved.

(Section 88, as amended by Ordinance No. 3428, passed May 2, 1989.)

[SECTIONS 89-90 Reserved for Expansion.]

ARTICLE XIV. HISTORIC CONSERVATION SUBDISTRICT (HC)

SECTION 91. DESCRIPTION AND PURPOSES. The Historic Conservation (HC) Subdistrict shall apply to all structures and sites listed on the Pendleton Comprehensive Plan Inventory of Historic Sites, Structures and Districts.

The purposes of the (HC) Subdistrict are to:

- (1) Implement the historic and cultural resource policies of the Comprehensive Plan.
- (2) Encourage the preservation, rehabilitation, and adaptive use of sites, structures and districts that are indicative of Pendleton's history and architectural and cultural heritage.
- (3) Provide a process for the review of development proposed for any site, structure or district listed on Pendleton's Inventory of Historic Sites, Structures, and Districts.

(Section 91, as added by Ordinance No. 3276, passed September 27, 1983; and amended by Ordinance No. 3394, passed July 7, 1987.)

SECTION 92. APPLICATION.

A. When a development, alteration or demolition is proposed for an historic site or structure, the Planning Director or Landmarks Commission shall review the proposal to insure that it meets the requirements of this article. A permit is required for any alteration or demolition of an historic site or structure.

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature on any property covered by this section that does not involve a change in design, material, or external appearance thereof. Nor does this article prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the City of Pendleton Building Official determines that such emergency action is required for the public safety due to an unsafe or dangerous condition. Prior to such emergency action, notification shall be provided to the Landmarks Commission.

B. The following documents and their performance standards are hereby adopted by reference and made a part of this article:

- (1) City of Pendleton Inventory of Historic Sites, Districts and Buildings.
- (2) City of Pendleton Comprehensive Plan and Technical Report.
- (3) State of Oregon Uniform Building code - Section(s) regarding historic buildings.
- (4) The Secretary of the Interior's Standards for Historic Preservation Projects with Guidelines for applying the Standards, U. S. Department of the Interior, Heritage Conservation and Recreation Service, Technical Preservation Service Division, Washington, D. C., 1979, or subsequent editions.

(Section 92, as added by Ordinance No. 3276, passed September 27, 1983; amended by Ordinance No. 3394, passed July 7, 1987; and Ordinance No. 3428, passed May 2, 1989.)

SECTION 93. CRITERIA FOR REVIEW.

A. New Development: Upon receipt of a proposed new use request for an historic site or structure, the Planning Director (if the use is permitted outright) or the Landmarks Commission (if the use is a conditional use) shall review the request within thirty (30) days to see if the request will:

- (1) Be compatible with the identified historical, archeological or cultural item identified on or near the site;
- (2) The request is in conformance with applicable elements of the Comprehensive Plan;
- (3) The request is in conformance with other applicable sections of this Ordinance;
- (4) That the proposed new use will take into consideration setbacks, excavation, landscaping, scenic views and other man-caused land disturbances in relation to the identified historic site or structure;
- (5) That the proposed new use is appropriate and will assist in preserving the significant physical characteristics of the historic site or structure;
- (6) That the physical changes necessary for the proposed new use will not require substantial alteration, thus diminishing the historic significance of the historic site or structure;
- (7) Conditions may be attached to the zoning approval or conditional use permit to ensure the viability of the historic site or structure, including use of the documents referenced in Section 92B. Said conditions may include, but not be limited to, setbacks, site design, landscaping, architectural style, scale, texture and construction materials.

New development shall not be approved if it is found to be detrimental to the historic site or structure as unsightly or otherwise adversely affecting the architectural significance, the integrity of historical appearance and educational and historical value of the historic site or structure; or is found not to be in accord with other historic review criteria.

B. Exterior Alterations:

(1) Upon receipt of a zoning or development permit application to change the exterior of an historic structure, the Planning Director shall review the application within thirty (30) days to determine if the application will be harmonious and compatible with the character of the historic resource with respect to style, scale, texture and construction materials and/or will enhance the historical value of the structure.

(2) Conditions may be attached to the approval of a building permit to ensure the viability of the structure, including use of the documents referenced in Section 92B. Said conditions may include, but not be limited to, setbacks, site design, landscaping, architectural style, scale, texture and construction materials.

(3) Historic site or structure alterations review standards shall include, but not be limited to, the following:

(a) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(b) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(c) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(d) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(e) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(f) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.

(g) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(h) Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the structure, the essential form and integrity of the structure would be unimpaired.

C. Demolition or moving of an historic structure: When demolition or moving is proposed for an historic structure, the Planning Director and the structure owner shall endeavor to prepare an economically feasible plan for preservation of the structure. The possibilities of purchase of the structure by interested persons, organizations or government agencies shall be explored.

If a designated structure is to be demolished or moved, the Planning Director shall require the applicant to assist the appropriate historical organization to record the structure and its setting by means of photographs, pictures, artifacts or architectural detail salvage, written description, measured drawings or other means of documentation.

D. Signs. Types of signs allowed in the sites, districts or structures shall be those permitted by the sign ordinance. However, the Planning Director or Landmarks Commission may require additional standards as to size, scale, material, lettering and construction to ensure that signs will be harmonious and compatible with the character of the resource.

(Section 93, as added by Ordinance No. 3276, passed September 27, 1983; amended by Ordinance No. 3394, passed July 7, 1987; and Ordinance No. 3428, passed May 2, 1989.)

SECTION 94. REVIEW AND DISPOSITION.

A. In reviewing the development plans, the Planning Director or Landmarks Commission shall require a plot plan from the applicant drawn at a scale no smaller than 1" = 200'. The plot plan shall accurately show property boundaries, natural features (i.e. trees, shrubs, rock outcropping, etc.), the existing and proposed uses, and any other pertinent information that would help to identify how the proposed use and the historic, archeological or cultural use would co-exist in a compatible manner. The Planning Director or Landmarks Commission may refer the request to other agencies or individuals for their review and comment. If, after review, the Planning Director or Landmarks Commission finds that the development meets the criteria of this Ordinance, the application shall be approved and the applicant shall obtain a zoning permit prior to commencement of any work. Any development shall conform to the plot plan submitted by the applicant and approved by the Planning Director or Landmarks Commission.

B. In the case of a permit for the alteration of an historic site or structure, the Planning Director or Landmarks Commission shall (1) approve the request as submitted; (2) approve the request with modifications; (3) delay the final decision on the request for sixty (60) days to allow time for an alternative to the alteration to be developed; or (4) deny the request.

C. In the case of an application for demolition of an historic site or structure, the Planning Director shall order:

(1) The immediate issuance of the permit if the Planning Director finds all of the following:

(a) The structure cannot be economically maintained or restored, giving due consideration to all potential uses to which the structure might reasonably be put upon restoration by the property owner;

(b) A program or project does not exist which may result in preservation of the structure;

(c) Delay of the permit would result in unnecessary and substantial hardship to the applicant;

(d) Issuance of the permit will not act to the substantial detriment of the public welfare considering the significance of the structure and the economic, cultural, and energy consequences of demolishing the structure; or

(e) No other reasonable alternative to demolition exists.

(2) The immediate issuance of the permit if the structure for which the demolition permit has been requested has been damaged in excess of fifty (50%) percent of its assessed value due to fire, flood, wind, or other act of God.

(3) Delayed issuance of the permit for up to sixty (60) days. During this period, the Planning Director shall attempt to determine if public or private acquisition and preservation is feasible or if other alternatives are possible which could be carried out to prevent demolition of the site or structure.

D. Any decision of the Planning Director made under this Article may be appealed to the Landmarks Commission. Any decision of the Landmarks Commission may be appealed to the City Council. (Section 94, as added by Ordinance No. 3276, passed September 27, 1983; amended by Ordinance No. 3394, passed July 7, 1987; and Ordinance No. 3428, passed May 2, 1989.)

SECTION 95. DESIGNATION OF HISTORIC SITES, DISTRICTS AND STRUCTURES.

A. The Landmarks Commission shall, from time to time, designate sites and structures within the City as being of such historic, archeological and cultural significance that conservation and protection from conflicting land uses is warranted.

B. These designations shall be made through the public hearing process described in Section 161 of this Ordinance. The Commission shall seek the advice of the Umatilla County Historical Society, government agencies and other knowledgeable and interested individuals and organizations.

C. The Landmarks Commission shall prepare and maintain an Inventory of Historical Sites, Districts and Structures to include those designated by State or Federal agencies.

(Section 95, as added by Ordinance No. 3276, passed September 27, 1983; amended by Ordinance No. 3394, passed July 7, 1987; and Ordinance No. 3428, passed May 2, 1989.)

ARTICLE XV. MIXED USE DEVELOPMENT SUBDISTRICT (MXD)

SECTION 96. MIXED USE DEVELOPMENT SUBDISTRICT REGULATIONS.

A. Description and Purpose. It is the purpose of the Mixed Use Development Subdistrict to:

- (1) Provide incentives for better development design, provision of amenities, and creation of other public or private facilities or open spaces;
- (2) Encourage a diversity of compatible land uses, which may include a mixture of residential, office, neighborhood commercial, recreational, light industrial, and public or semi-public uses;
- (3) Provide a mechanism for the "master planning" of larger parcels of land within the City in conformance with the policies of the Comprehensive Plan;
- (4) Encourage the most efficient and timely development of streets, utilities, open spaces and housing units; while protecting the environment.

B. Development Standards.

- (1) All public improvements shall be installed to City standards, unless otherwise approved by the City Council on recommendation of the Planning Commission;
- (2) Mixed Use Development Subdistricts shall not be less than one hundred (100) acres in size;
- (3) Permitted uses in a Mixed Use Development Subdistrict shall be those permitted outright or conditionally in any residential or commercial zone; plus the outright uses of the light industrial zone.
- (4) Professional Design. The applicant for a Mixed Use Development Subdistrict shall certify that the talents of at least one of the following professionals are utilized in the planning process:
 - (a) An architect, or landscape architect, licensed by the state of Oregon.
 - (b) A registered engineer or land surveyor licensed by the state of Oregon;
 - (c) One of the professional consultants chosen by the applicant from either (a) or (b) above, shall be designated as coordinator to be responsible for conferring with the City Manager with respect to the concept and details of the development. The selection of the professional coordinator of the design team shall not limit the owner or the developer in consulting with the City Manager.
- (5) Density. The density of residential development within an entire Mixed Use Development Subdistrict shall be within that set forth for the underlying zone, except as provided below:
- (6) Density Bonus. The density bonuses below shall be available to an applicant that can provide any of the following benefits:

<u>Low Density Residential</u>	-	7.5% base density increase per amenity (Base Density 1-9 Units/Ac) (not to exceed 75% total density increase)
<u>Medium Density Residential</u>	-	5.0% base density increase per amenity (Base Density 5-15 Units/Ac) (not to exceed 50% total density increase)
<u>High Density Residential</u>	-	2.5% base density increase per amenity (Base Density 11-35 Units/Ac) (not to exceed 25% total density increase)
<u>Density Bonus Amenities:</u>	-	One bonus is possible in b, c, and e; several bonuses are possible with a, d, and f:

- (a) Improvements to public or private open space, such as but not limited to: play or picnic equipment; basketball, racquetball, or tennis courts; ice or roller skating rinks; ballfields; skateboard parks, golf course; swimming pools; clubhouse, etc.
- (b) Qualifying for and obtaining federal, state, or local program funding to provide housing units for low to moderate income families and/or the elderly;
- (c) At least seventy five (75%) percent of the dwellings will have active and/or passive solar heating construction features built-in, with guaranteed access to sunlight via development regulations of structures and vegetation;
- (d) Creation of areas devoted primarily to pedestrians, cyclists, equestrians, etc., in a functional relationship to adjacent or area-wide pedestrian, bicycle, or equestrian networks, existing or planned;
- (e) Obtaining a commitment from a non-polluting, light industrial use to locate on the property;
- (f) Creation of public access to, and/or preservation of natural areas and features, scenic vistas, and archaeological, cultural, or historic sites.

C. MXD Permit Criteria. A Mixed Use Development Subdistrict may be granted by the City Council, on recommendation of the Planning Commission only if it is found that the development conforms to all of the following criteria:

- (1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements;
- (2) Resulting development will be consistent with the provisions of the Comprehensive Plan, or zoning objectives of the area;
- (3) The area around the development can be planned to be in substantial harmony with the proposed plan;
- (4) Any proposed commercial development, or industrial development can be justified economically;
- (5) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside of the planned area;
- (6) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;

- (7) The development can be completed within an acceptable period of time.

D. Procedure.

(1) An applicant shall submit twenty (20) copies of a Mixed Use Development Plan to the Planning Commission for study at least twenty-eight (28) days prior to the public hearing at which it shall be discussed. The preliminary plan shall include the following information:

- (a) Proposed land uses and housing unit densities;
- (b) Proposed circulation pattern, including streets, pedestrian and bicycle ways, etc.
- (c) Proposed open spaces and public lands;
- (d) Proposed method of water and sewer service;
- (e) Economic and supporting data to justify any proposed commercial or industrial uses;
- (f) Relation of the proposed development to the surrounding area and the general plan.

(2) Prior to the discussion of the preliminary plan at a Commission meeting, the Planning Commission staff shall distribute copies of the proposed development to affected agencies for review and comment.

(3) After review of the Mixed Use Development plan for compliance with the criteria and regulations of this, and other applicable Ordinances, and the comments of affected agencies, the Planning Commission shall recommend to the City Council the approval, approval with conditions, or denial of the request.

(4) A final Mixed Use Development plan, taking into account any changes made to the preliminary plan by the Commission, shall be submitted to the Planning Commission within six (6) months of preliminary approval, for their recommendation to the City Council. At the time of final approval, the property owner shall, at a minimum, irrevocably consent to dedicate to the public the necessary rights-of-way for all streets shown on the development plan that are classified as collector or arterial streets by the City Comprehensive Plan. The street dedications shall include an irrevocable consent to their improvement to City standards (pavement, curbs, gutters, and sidewalks on both sides). There also shall be an irrevocable consent to dedicate, at the time requested by the City, any school, park, reservoir, fire station or other public lands at the time of final approval.

After approval, the property will become a MXD Subdistrict on the official City Zoning Map. Such approval in no way invalidates the requirements for compliance with subdivision platting regulations.

(Section 96, as amended by Ordinance No. 3394, passed July 7, 1987.)

ARTICLE XVI. PLANNED UNIT DEVELOPMENT SUBDISTRICT (PUD)

SECTION 97. DESCRIPTION AND PURPOSE. The Planned Unit Development Subdistrict (PUD) is intended to encourage the appropriate development of tracts of land that are large enough to allow comprehensive site planning, and to provide flexibility in the application of zoning regulations, thereby promoting a harmonious variety of uses, the economy of shared service and facilities, compatibility with surrounding areas, and the creation of an attractive, healthful, efficient and stable environment for living, shopping and working.

SECTION 98. DEVELOPMENT STANDARDS.

A. The principle use of land in a Planned Unit Development Subdistrict (PUD) shall reflect the type of use indicated on the zoning map for the area. Accessory uses within the development may include uses permitted outright in any zone, except the EFU, Aviation Activities (A-A) and Heavy Industrial (M-2) zones. The Density and Density Bonus provisions of the Mixed Use Development Subdistrict (MXD) (Section 96[B], 5 and 6) shall also apply to the development of a Planned Unit Development Subdistrict (PUD).

B. Size of Parcel. A Planned Unit Development Subdistrict (PUD) shall not be permitted on a parcel less than twenty (20) acres in area.

C. Ownership:

(1) The tract or tracts of land included in a proposed Planned Unit Development Subdistrict (PUD) must be in one ownership or control, or the subject of a joint application by the owners of all the property included. For the purpose of this section the holder of a valid written real estate contract shall be deemed the owner of such land;

(2) Unless otherwise provided as a condition for approval of a Planned Unit Development Subdistrict (PUD) permit, the permittee may divide and transfer units of any development for which a permit is required. The transferee shall use and maintain each such unit in strict conformance with the approved permit and development plan;

D. Professional Design. The applicant for all proposed Planned Unit Development Subdistrict (PUD) pursuant to the requirements of this section, shall certify that the talents of at least one of the following professionals shall be utilized in the planning process for development:

- (1) An architect licensed by the state of Oregon, or a landscape architect licensed by the state of Oregon;
- (2) A registered engineer or land surveyor licensed by the state of Oregon;

(3) One of the professional consultants chosen by the applicant from either (1) or (2) shall be designated as coordinator to be responsible for conferring with the City Manager with respect to the concept and details of the plan. The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the City Manager;

E. Performance bonds shall be required to ensure that a Planned Unit Development (PUD) proposal is completed as submitted within the time limit agreed upon by the developer and the Planning Commission.

SECTION 99. PUD PERMIT CRITERIA. A Planned Unit Development Subdistrict (PUD) may be granted by the Planning Commission only if it is found that the development conforms to all of the following criteria:

- A. There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements;
- B. Resulting development will not be inconsistent with the general plan provisions for zoning objectives of the area.
- C. The area around the development can be planned to be in substantial harmony with the proposed plan.
- D. Any proposed commercial or industrial development can be justified economically.
- E. Public streets must be to City standard and adequate to support anticipated traffic, so that the development will not overload streets outside of the planned area.
- F. Proposed utility and drainage facilities shall be to City standard and adequate to serve the population densities and type of development proposed.

SECTION 100. PROCEDURE. The following procedures shall be observed when a Planned Unit Development Subdistrict (PUD) proposal is submitted for consideration:

- A. Application. A letter of intent for Planned Unit Development Subdistrict (PUD) shall be submitted by the owner or his authorized agent to the City Manager.
- B. Review. There shall be a three stage review process for Planned Unit Development Subdistrict (PUD) consisting of Pre-preliminary Stage (Stage Two), and Final Approval (Stage Three).

SECTION 101. PRE-APPLICATION (Stage One). The owner, or his authorized agent, shall submit to the City Manager the following information:

- A. A schematic drawing, drawn to a minimum scale of one inch equals two hundred feet (1" = 200'), showing the general relationship contemplated among all public and private uses and existing physical features, and the following:
 - (1) Proposed circulation pattern indicating the status of street ownership;
 - (2) Proposed open space uses;
 - (3) Proposed grading and drainage pattern;
- B. A statement of the proposed method of water supply and sewage disposal.
- C. Relation of the proposed development to the surrounding area and the general plan.
- D. Prior to presentation of the plan to the Planning Commission, copies shall be submitted by the City Manager to the City Engineer and Public Works Director for review. The developer and the City Manager shall meet to ascertain that the above requirements have been complied with.
- E. The applicant shall indicate to the City Manager or Planning Commission his professional design team, and designate who his professional coordinator is to be.
- F. The professional coordinator and the developer shall be responsible for presenting the plan in all of the broad professional aspects to the Planning Commission. If the City Manager and developer reach a satisfactory agreement, the developer may proceed to prepare data for Stage Two, Preliminary Approval. If the City Manager and developer have different opinions, then the developer may appear before the Planning Commission.

SECTION 102. PRELIMINARY APPROVAL (Stage Two). Applications for Planned Unit Development Subdistrict (PUD) Preliminary Approval, shall be made by the owner of all affected property or his authorized agent, and shall be filed on a form prescribed by the City Manager. Applications shall be accompanied by a fee as provided in Section 160 of this Ordinance, and shall be accompanied by the following information:

- A. Four (4) copies of a preliminary development plan of the entire development, showing streets, driveways, sidewalks, pedestrian ways, off-street parking and loading areas; location and approximate dimension of structures, utilization of structures, including activities and the number of living units; major landscaping features; relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets and open space. Said development plan shall include maps and information on the surrounding area within four hundred (400') feet of the development. A boundary survey or a certified boundary description by a registered engineer or licensed surveyor, plus contour information, shall also be submitted;

B. Elevations of all points used to determine contours shall be indicated on the preliminary plan and said points shall be given to true elevation above mean sea level. The base data used shall be clearly indicated and shall be compatible to City datum, if bench marks are not adjacent. The following intervals are required:

- (1) One (1') foot contour intervals for ground slopes up to five (5%) percent;
- (2) Two (2') foot contour intervals for ground slopes between five (5%) percent and ten (10%) percent;
- (3) Five (5') foot contour intervals for ground slopes exceeding ten (10%) percent.

C. All elements listed in this paragraph shall be characterized as existing or proposed and sufficiently detailed to indicate intent and impact.

D. Tabulation of the land area to be devoted to various uses, and a calculation of the average residential density per net acre.

E. A stage development schedule demonstrating that the developer intends to commence construction within one (1) year after the approval of the final development plan, and will proceed diligently to completion.

SECTION 103. PRELIMINARY PLANNING COMMISSION ACTION (Stage Two).

A. An application for a Planned Unit Development Subdistrict (PUD) permit shall be considered by the Planning Commission. A public hearing shall be held on each such application. Notice of the public hearing shall be given in accordance with the provisions of Section 161 of this Ordinance.

B. If the Planned Unit Development Subdistrict (PUD) is in the County, but contiguous to the City and is proposed to be annexed to the City after the initial building phase is completed, and the applicant completes the procedures set out in the Pre-Application Stage One (Section 101 of this Ordinance), and obtains approval from the County after a public hearing is held, the requirement of a public hearing from Preliminary Planning Commission action, Stage Two (Section 102 of this Ordinance) may be waived and the County hearing may be substituted for the required City Planning Commission hearing.

C. After such hearing, the Commission shall determine if the proposal conforms to the permit criteria, and may approve or disapprove the application and the accompanying preliminary development plans or require such changes therein or impose such conditions of approval as are in its judgment necessary to ensure conformity to said criteria. In so doing the Commission may, at its discretion, authorize submission of the final development plan in stages, corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule.

D. In the event a decision is not rendered within sixty (60) days after filing, the application and preliminary development plan shall be deemed approved unless said time has been extended by the Planning Commission. The determination of the Commission shall become final ten (10) days after the date of decision unless appealed to the City Council.

SECTION 104. FINAL APPROVAL (Stage Three). Within one (1) year after the approval or modified approval of a preliminary development plan, the applicant shall file with the Planning Commission a final plan for the entire development, or when submission in stages has been authorized, the applicant shall file a final plan of the approved stage. The final plan shall conform in all major respects with the approved preliminary plan plus the following: the location of water, sewage, and drainage facilities; detailed building and landscaping plans; the character and location of signs; plans for street improvements and grading or earth moving plans. Detailed plans for water, sewage, drainage, streets, and grading are to be prepared by a registered engineer. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of legal documents required by the Commission for dedication or reservation of public facilities, or for the creation of a non-profit homes association, shall also be submitted in accordance with Oregon Revised Statutes.

SECTION 105. PUBLIC WORKS DIRECTOR'S REPORT (Stage Three). Within thirty (30) days after the filing of the final development plan, the Planning Commission shall forward such development plan and the original application to the Public Works Department for review of public improvements, including streets, sewers and drainage. The Commission shall not act on a final development plan until it has first received a report from the Public Works Department or until more than thirty (30) days have elapsed since the plan and the application were sent to the Public Works Department, which ever is the shorter period.

SECTION 106. FINAL PLANNING COMMISSION ACTION (Stage Three). Upon receipt of the final development plan, and one (1) transparency, the Planning Commission shall examine such plan to determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved unit development permit, or require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards. In so doing, the Commission may permit the applicant to revise the plan and resubmit it as a final development plan within thirty (30) days. If the Commission does grant such permission, the decision of the Commission shall become final ten (10) days after the date of decision, unless appealed to the City Council.

SECTION 107. APPEAL TO COUNCIL. Within ten (10) days after the date of decision by the Planning Commission on an application for approval of a preliminary or final development plan or for modification or amendment of any such plan, or on revocation of any such plan, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Manager. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of such appeal the Council shall set the time for consideration thereof. The City Manager shall notify the Planning Commission of the receipt of said appeal and of the time set for consideration thereof; and said Commission shall, not less than ten (10) days prior to the date set for the hearing on the appeal, give written notice to the appellant and to any known adverse parties, or to their representatives, of the time and place of the hearing. In considering the appeal, the City Council shall determine whether the proposal conforms to the applicable criteria and standards. They may approve or disapprove the proposed development or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and standards. The decision of the City Council shall be final.

SECTION 108. MAPPING AND BUILDING PERMITS. Whenever a Planned Unit Development Subdistrict (PUD) had been granted, and so long as the permit is in effect, the boundary of the Planned Unit Development shall be indicated on the Zoning Map of the City of Pendleton with the letters PUD in addition to the abbreviated designation of the pre-established zoning. Building permits in a Planned Unit Development Subdistrict (PUD) shall be issued only on the basis of the approved plan.

SECTION 109. REVOCATION. In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, the Planning Commission may, after notice and hearing, revoke a Planned Unit Development Subdistrict (PUD) permit. The determination of the Planning Commission shall become final thirty (30) days after the date of decision unless appealed to the City Council.

[SECTIONS 110-111 Reserved for Expansion.]

ARTICLE XVII. UMATILLA RIVER SUBDISTRICT (U-R)

SECTION 112. DESCRIPTION AND PURPOSE. The Umatilla River Subdistrict is intended to encourage the appropriate development of tracts of land lying adjacent to and within 75 feet of the 100 year floodway of the Umatilla River, and adjacent to and within 50 feet of the 100 year floodway of its tributaries; thereby promoting land uses compatible with the existing and potential open-space and recreational utilization of the river system, and to further the development of the Umatilla River Parkway.

SECTION 113. DEVELOPMENT STANDARDS.

A. Land uses within the Umatilla River Subdistrict shall comply with the provisions of the underlying zone. However, new development within the subdistrict, that requires the obtaining of a permit under the provisions of the Uniform Building Code, or that requires excavation or fill within the boundaries of the U-R subdistrict, with the exception of city parks, shall be reviewed by the Planning Director for referral to the Planning Commission as set forth in B below. City parks are hereby determined to be consistent with the purpose of this subdistrict and fully compatible with the existing open-space and recreational utilization of the river system. Therefore City parks and development activity therein are exempt from review and do not require a conditional use permit or discretionary review under the provisions of this section 113.

B. If in the opinion of the Director of Planning and Building the proposed structure or use falls within three or more of the criteria below, it shall require a Conditional Use permit; if less than three, a discretionary approval of the Commission is required:

- (1) The construction is valued at \$5,000 or more;
- (2) The construction is two hundred fifty (250) square feet in area or over;
- (3) The construction exceeds a height of fifteen (15') feet;
- (4) The construction has potential visual, audible, or odoriferous impacts.
- (5) The construction involves excavation, fill or other alteration of the landscape included within the Umatilla River Subdistrict.

- (6) The construction has a potential negative impact on fish or wildlife, or an archeological resource.

C. In evaluating a proposed development within the U-R subdistrict, whether during a public hearing or public meeting, the Commission shall base its decision to approve, conditionally approve, or deny, on all the following criteria:

- (1) Consistency with the policies of the Comprehensive Plan;
- (2) Consistency with the purpose statement of Section 112 of this Ordinance;

(3) Recommendations received from agencies with expertise in addressing potential impacts;

(4) An evaluation of the economic, social, environmental and energy consequences of the permit request as defined by OAR 660-16-000.

D. Developers should be made aware in the permit process of the potential for discovering archaeologically significant areas along the river system corridor. If an archeological find is made, the construction shall cease for a maximum of ninety (90) days to allow a qualified archeologist to determine the importance of the find and develop a plan to preserve the site's value. If a plan acceptable to the Planning Commission is developed, construction may be halted for a maximum period of one (1) year to allow for preservation of the resource. (Section 113, as amended by Ordinance No. 3276, passed September 27, 1983.)

Note amended Ordinance No. 3692 adopted February 17, 2004

[SECTIONS 114-115 Reserved for Expansion.]

ARTICLE XVIII. MISCELLANEOUS PROVISIONS FOR ALL ZONES

SECTION 116. ESTABLISHMENT OF CLEAR-VISION AREAS. A clear-vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (22') feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that 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 grade of a sidewalk, and eleven (11) feet above the grade of a roadway.

Property owners shall not permit the limbs or other portion of a tree, bush, flower, plant or shrub on private property or on public property abutting private property to project into or extend over a street so that the vegetation interferes with the use of the sidewalk or roadway, obstructs a driver's view of an intersection, street sign or of traffic upon streets approaching an intersection, or otherwise creates a hazard to the public. Where topography dictates a requirement for retaining walls to provide practical usable yard area, clear-vision area limits shall not apply to such retaining walls construction. (Section 116, as amended by Ordinance No. 3440, passed March 20, 1990.)

SECTION 117. MEASUREMENT OF CLEAR-VISION AREAS. A clear-vision area shall consist of a triangular area two sides of which are lot lines measured from corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two sides. Where the lot lines have rounded corners, the lot lines extending a straight line to a point of intersection with the third side. The following measurements shall establish clear-vision areas: (See Figure 9.)

A. In a residential zone:

(1) Where the intersection is not equipped with a stop sign or a stop light, the minimum distance shall be thirty (30') feet, or at intersections including an alley, ten (10') feet;

(2) Where the intersection is equipped with a stop sign or a stop light, the minimum distance shall be twenty (20') feet, or at intersections including an alley, ten (10') feet.

B. In the Central Commercial Zone C-1, a clear-vision area shall be required at all intersections not controlled by traffic signals, for a minimum of ten (10') feet.

C. In all other zones the minimum distance shall be fifteen (15') feet, or at intersections including an alley, ten (10') feet; except that when angle of intersection between streets is less than 30 degrees, the distance shall be twenty-five (25') feet.

SECTION 118. SOLAR ACCESS. The use of solar energy collectors for the purpose of providing energy for heating and/or cooling is a permitted accessory use within all zones, whether as a part of a structure or incidental to a group of structures in the vicinity. Use of solar energy collectors is subject to the restraints imposed by the diversity of topography within the Pendleton City Limits, plus existing structures and vegetation. No guarantee is hereby given that all property within the City limits of Pendleton is entitled to the use of solar collectors. However; as a general policy, reasonable care shall be taken to protect the opportunity for the utilization of solar collectors at all of the locations available.

The use of solar skyspace easements is encouraged as a means for property owners to legally record the location of solar energy systems, and ensure its access to sunlight. A copy of such easement and mapping of the energy system location shall be filed with the City Building Department; which in turn, will not issue a Building Permit to any development that would infringe upon the solar skyspace as set forth in the easement agreement. A solar skyspace easement shall include:

A. A legal description of both the southern neighbor's lot and the solar owner's lot.

B. A detailed description of the easement by bulk plane or sun chart stating precisely the locations of and restrictions on trees and/or structures on the southern neighbor's lot, with times of allowed shadows, etc.

C. General requirements which apply to any legal deed or easement.

D. Terms and conditions by which the solar easement is granted and may be modified or terminated.

- E. Provisions that the easement is to run with the land and apply to subsequent purchasers of the affected lots.
 - F. A maintenance section, setting forth duties and costs involved in tree trimming.
 - G. A section specifying procedures to follow if the southern neighbor fails to abide by the limitations on trees, vegetation, or structures;
- (See Appendix B for a sample solar skyspace easement form.)

SECTION 119. OFF-STREET AUTOMOBILE AND BICYCLE PARKING REQUIREMENTS.

At the time of erection of a new structure, or at the time of enlargement or change in use of an existing structure within any zone in the City, except the Central Area Parking District (see Figure 10) off-street automobile and bicycle parking spaces shall be provided in accordance with the requirements of this section, unless greater requirements are otherwise established. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if elimination would result in less than is required by this section. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of property but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional automobile space requirements shall be counted as a whole space, fractional bicycle spaces shall not.

The following off-street automobile and bicycle parking MINIMUMS are hereby established. PARKING MAXIMUMS ARE SET AT 125 PERCENT OF THE MINIMUMS

A. Residential:

- (1) Single family (attached or detached): one (1) space per unit;
- (2) Duplex - three (3) spaces per duplex;
- (3) Multi-family dwellings: one and one-half (12) spaces per unit in residential zones, one (1) space per unit in commercial zones; plus one bicycle space per seven (7) units in all multi-family dwellings;
- (4) Residential hotel, rooming or boarding houses: Spaces equal to eighty (80%) percent of the number of guest accommodations plus one (1) additional space for the owner or manager.

B. Commercial Residential:

- (1) Hotel: One space per guest room or suite, one (1) additional space for the owner or manager, plus one (1) space for every ten (10) units;
- (2) Motel: One (1) space per guest room or suite, one (1) additional space for the owner or manager, plus one (1) space for every ten (10) units;
- (3) Club or Lodge: Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.

C. Institutional:

- (1) Welfare or correctional institution: One (1) space per five (5) beds for patients or inmates, plus one (1) space per two (2) employees;
- (2) Convalescent hospital, nursing home, sanitarium, rest home, group care home: One (1) space per two (2) beds for patients or residents, plus one (1) space per two (2) employees;
- (3) Hospital: Spaces equal to one and one-half (12) times the number of beds.

D. Place of public assembly:

- (1) Church: One (1) space per four (4) seats or eight (8') feet of bench length in the main auditorium;
- (2) Library or reading room: One (1) space per four hundred (400) square feet of floor area plus one (1) space per two (2) employees; plus ten (10) bicycle spaces;
- (3) Pre-school nursery or kindergarten: One (1) space per teacher; plus bicycle spaces equal to one tenth of the student capacity;
- (4) Elementary or junior high schools: One (1) space per classroom, plus one (1) space per employee or one (1) space for each four (4) seats or eight (8') feet of bench length in the auditorium or assembly room, whichever is greater; plus bicycle spaces equal to one tenth of the student capacity;
- (5) High school: One (1) space per classroom, plus one (1) space per employee, plus one (1) space for each six (6) students or one (1) space for each four (4) seats or eight (8') feet of bench length in the main auditorium, whichever is greater;
- (6) College or commercial school for adults: One (1) space per five (5) seats in classrooms, plus one (1) space per employee;
- (7) Other auditorium or meeting room: One (1) space per four (4) seats or eight (8') feet of bench length; plus bicycle parking spaces equal to one per ten (10) auto spaces.

E. Commercial amusement:

- (1) Stadium, arena or theatre: One (1) space per four (4) seats or eight (8') feet of bench length; plus ten (10) bicycle spaces;
- (2) Bowling alley: Three (3) spaces per alley plus one (1) space per two (2) employees; plus ten (10) bicycle spaces;

(3) Dance hall or skating rink: One (1) space per two hundred (200) square feet of floor area, plus one (1) space per two (2) employees; plus ten (10) bicycle spaces.

F. Commercial:

(1) Retail store except as provided in subsection (2) of this subsection: One (1) space per two hundred fifty (250) square feet of floor area; plus one (1) bicycle space per 4000 sq. ft. of floor area;

(2) Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles and furniture: One (1) space per six hundred (600) square feet of floor area; plus one (1) bicycle space per 4000 sq. ft. of floor area;

(3) Bank or office (except medical and dental): One (1) space per six hundred (600) square feet of floor area, plus one (1) space per two (2) employees;

(4) Medical and dental clinic: One (1) space per three hundred (300) square feet of floor area, plus one (1) space per two (2) employees; plus one (1) bicycle space per 4000 sq. ft. of floor area;

(5) Eating or drinking establishment: One (1) space per two hundred fifty (250) square feet of floor area; plus one (1) bicycle space per 4000 sq. ft. of floor area;

(6) Mortuary: One (1) space per four (4) seats or eight (8') feet of bench length in chapels.

G. Industrial:

(1) Storage warehouse, manufacturing establishment, rail or trucking freight terminal: One (1) space per employee; plus one (1) bicycle space per 50 employees;

(2) Wholesale establishment: One (1) space per seven hundred (700) square feet of patron serving area, plus one (1) space per employee, plus one (1) bicycle space per 50 employees. (Section 119, as amended by Ordinance No. 3745, passed June 19, 2007)

SECTION 120. OFF-STREET LOADING REQUIREMENTS.

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

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

SECTION 121. GENERAL PROVISIONS FOR OFF-STREET PARKING AND LOADING.

A. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance. Use of property in violation hereof shall be a violation of this Ordinance. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered used until the required increase in off-street parking or loading is provided.

B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.

C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

D. Provided, however, that the requirements of this section of this Ordinance may be met by a property owner or owners by:

(1) Creation of an improvement district, under any bonding act now existing or which may hereafter be enacted;

(2) Creation, subject to approval of the Council, of a jointly owned and maintained parking area; and further provided that said property owner or owners so acting may be granted a period of time to be set by the Council within which time said property owner or owners may acquire parking area, provided said owner or owners shall have made contributions to a fund within the control of the City Council, and in such amounts as directed by the City Council for the purpose of so acquiring and maintaining said parking area; and provided that said contributions shall be paid as directed, and that payment thereof shall not be abandoned by said person or persons or any one of them prior to the acquisition of said area.

E. Owner of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases or contracts to establish the joint use.

F. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not further than five hundred (500') feet from the building or use they are required to serve, measured along the shortest pedestrian route from the building.

G. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks in conducting the business or use.

H. Design requirements for parking lots:

(1) All parking areas for four or more vehicles shall be surfaced with asphalt, concrete or similar pavement so as to provide a surface that is durable and dust-free and shall be so graded and drained to avoid the flow of water across public sidewalks. Such parking areas are required to obtain a parking lot permit from the City Engineer. Permits are required for new parking lots, paving of gravel parking lots and overlays of existing parking lots. Parking lot permits shall be acquired by the licensed contractor performing the work.

(2) Except for parking to serve residential uses, public or private parking and loading areas adjacent to an existing residential dwelling or in a residential zone, shall be designed to include the erection of a sight obscuring fence or hedge of not less than six (6) feet in height except where vision clearance is required. A sight obscuring fence or hedge should be on any side not fronting the street.

(3) Parking spaces within a parking lot shall be designed and constructed so that no portion of a parked vehicle, including an opened door, will extend beyond the property line;

(4) Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling.

(5) Access aisles shall be of sufficient width for all vehicle turning and maneuvering.

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

(7) Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service the traffic to be anticipated. Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.

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

(9) All parking areas, except those required in conjunction with a single-family or two-family dwelling, shall provide a substantial curb which will prevent cars from encroachment on abutting private or public property.

(10) All parking areas shall be adequately landscaped at the rate of at least forty (40) square feet per required off-street parking space, unless otherwise approved by the Commission.

All parking areas adjacent to public sidewalks shall be buffered from the sidewalk (except at gateways and openings) with a minimum of four feet of landscape area with vegetation at least three feet in height.

(11) Off-street parking areas shall, at a minimum, comply with the design factors below:

PARKING DESIGN TABLE

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>
0C	9	9	12	23	30	--
20C	9	15	11	26.3	41	32.5
30C	9	17.3	11	18	45.6	37.8
45C	9	19.8	13	12.7	52.5	46.5
60C	9	21	18	10.4	60	55.5
70C	9	21	19	9.6	61	57.9
80C	9	20.3	24	9.1	64.3	62.7
90C	9	19	24	9	62	--
A. Parking Angle		E. Curb length per car				
B. Stall Width		F. Center to Center Width (from curb to curb)				
C. 19' Stall to curb		G. Of Double Row with aisle between stall centers				
D. Aisle width						

Compact car spaces may be allowed to serve non-residential uses on approval of the Director of Planning and Building. Such spaces shall not exceed 30 percent of the required number of spaces and shall not be more than four (4) feet shorter in length than standard spaces.

(12) Bicycle parking facilities shall be provided in accordance with the provisions below:

(a) Bicycle parking facilities should either be a lockable enclosure in which the bicycle is stored, or a secure stationary rack which supports the frame so the bicycle cannot easily be pushed or fall to one (1) side. Racks that require a user-supplied lock should accommodate locking the frame and both wheels using either a cable or U-shaped lock.

(b) Bicycle parking spaces should be at least six (6) feet long and two-and-one-half (2 1/2) feet wide, and overhead clearance in covered spaces should be a minimum of seven (7) feet.

(c) A five (5) foot aisle for bicycle maneuvering should be provided and maintained beside or between each row/rack of bicycle parking.

(d) Bicycle racks or lockers should be securely anchored.

(e) Required bicycle parking should be well lighted and secure.

(f) Bicycle parking should not obstruct walkways. A minimum five (5) foot wide aisle shall remain clear.

(g) If ten (10) or more bicycle spaces are provided for commercial development, then at least fifty percent (50%) of the bicycle spaces should be covered. A lockable enclosure shall be considered as a covered parking space.

(h) All of the required bicycle parking for residential uses should be covered. This may include space provided in a carport or garage.

(i) Bicycle parking should be located on the site within fifty (50) feet of main building entrances and not farther from the entrance than the closest standard or compact motor vehicle parking space. Bicycle parking should have direct access to both the public right-of-way and to the main entrance of the principal use.

(j) For buildings or developments with multiple entrances, bicycle parking should be distributed proportionally at the various public entrances; employee bicycle parking should be located at the employee entrance, if appropriate.

(k) Bicycle parking may be located in the public right-of-way only with the approval of the Public Works Director.

(l) Bicycle parking may be provided within a building easily accessible for bicyclists.

(13) In Commercial zones, parking areas should be, whenever possible, located behind the plane established by the front façade of the building for which the parking is being provided. The parking should be located to the rear of the building to the maximum extent possible. Locating the parking lot in front of the building (between the fronting, public right-of-way and the building) should be avoided. The required parking minimums in Section 119 may be reduced by 25% for developments with the parking located behind the building. For parking areas located beside a building, and behind the plane established by the front façade may have a 10% reduction in their required parking.

(Section 121, as amended by Ordinance No. 3276, passed September 27, 1983; Ordinance No. 3428, passed May 2, 1989; and Ordinance No. 3745, passed June 19, 2007.)

SECTION 122. (Section 122, deleted by Ordinance No. 3276, passed September 27, 1983.)

SECTION 123. LIMITED USE DEVELOPMENT SUBDISTRICT (L-U). [Section 123, as added by Ordinance No. 3511, passed December 6, 1994. Repealed by Ordinance No. 3699 passed September 17, 2004.]

SECTION 124A. PEDESTRIAN AND BICYCLE ACCESS AND CIRCULATION.

A sidewalk or walkway connection shall be provided between the primary entrance of each building and the adjacent or frontage street. In addition, a sidewalk or walkway providing reasonably direct connections between primary building entrances of abutting developments shall be incorporated into the design. Sidewalks or walkways at 50 feet or more in length through a parking lot area shall include raised pavement, striping, special pavers, or other similar identifying devices. Parking blocks or curbs should be used for each, non-parallel, parking stall. Bollards should be used to identify and protect these walkways.

Sidewalks or walkways should not be located behind parked vehicles requiring vehicles to back out across the walkway. Rather, the sidewalk should be in the front of the stalls (See drawing). When possible the walkway should be separated from parking stalls by a landscape buffer.” (Section 124A, as added by Ordinance No. 3745, passed June 19, 2007.)

SECTION 124. SUBDISTRICT REGULATIONS. [Section 124, as added by Ordinance No. 3511, passed December 6, 1994. Repealed by Ordinance No. 3699 passed September 17, 2004]

ARTICLE XIX. NONCONFORMING USES

SECTION 125. INTENT AND PURPOSE. Except as is hereinafter provided in this Ordinance, the lawful use of a building or structure or of any land or premises lawfully existing at the time of the effective date of this Ordinance or at the time of a change in the official zoning maps may be continued although such use does not conform with the provisions of this Ordinance. No unlawful use of property existing at the time of passage of this Ordinance shall be deemed a non-conforming use. (Section 125, as amended by Ordinance No. 3394, passed July 7, 1987.)

SECTION 126. VESTED RIGHTS. Nothing contained in this Ordinance shall:

A. Require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially commenced prior to the adoption of this Ordinance, provided the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two (2) years from the time construction was commenced.

B. Be construed to limit the sale, transfer, or other conveyance of property on which exists a non-conforming building, structure or use, so long as such sale, transfer or other conveyance does not otherwise violate the provisions of this Ordinance. (Section 126, as amended by Ordinance No. 3394, passed July 7, 1987.)

SECTION 127. ALTERATIONS OR REPAIRS OF A NON-CONFORMING USE.

A. Alterations or repairs of a non-conforming use may be permitted to continue the use in a reasonable manner subject to the provisions of this Ordinance. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use.

B. Any proposal for the alteration or repair of a non-conforming use may be permitted to reasonably continue, restore or replace the use.

C. As used in this section, "alteration" of a non-conforming use includes, as determined by the City Manager:

- (1) A change in the use of no greater adverse impact to the neighborhood; and
- (2) A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

D. A non-conforming use may be altered only insofar as it applies to the zone in which it is located. Once altered to conforming use, no building or land shall be permitted to revert to a non-conforming use.

(Section 127, as amended by Ordinance No. 3394, passed July 7, 1987.)

SECTION 128. RESTORATION OF A NON-CONFORMING BUILDING, STRUCTURE OR LOT.

A. A non-conforming building or structure which is damaged by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, may be restored, and the occupancy or use of such building or structure or part thereof, which existed at the time of such partial destruction, may be resumed, provided that the restoration is commenced within a period of one (1) year and is diligently prosecuted to completion.

B. The restoration or reconstruction of a non-conforming building or structure may not create a greater non-conformance than existed at the time of damage or destruction.

C. Nothing in this Ordinance shall be construed to prevent the reconstruction or replacement of a pre-existing building or structure conforming as to use on a non-conforming lot, so long as such lot did not become non-conforming in violation of the provisions of this Ordinance. (Section 128, as amended by Ordinance No. 3394, passed July 7, 1987.)

SECTION 129. DISCONTINUANCE OF A NON-CONFORMING USE. When a non-conforming use of a structure or property is discontinued for a period in excess of one (1) year, the structure or property shall not thereafter be used except in conformance with the zone in which it is located.

(Section 129, as amended by Ordinance No. 3394, passed July 7, 1987.)

SECTION 130. NON-CONFORMING LOTS.

A. Any lot which is smaller than the minimum area required in any zone except any Exclusive Farm Use Zone may be occupied by an allowed use in that zone, provided that:

- (1) The lot was a tax lot as shown on the assessor's rolls on the date of this Ordinance or a lot in a recorded subdivision; and
- (2) The use conforms to all other requirements of that zone.

B. A non-conforming lot of record may not be redivided or reduced in area unless it is rezoned to become legally dividable, except where it can be shown by a survey from a surveyor licensed in Oregon that the survey lines do not correspond with physical boundary markers (such as fences) thought to be the true property lines by adjoining property owners, when these physical boundary markers have existed for a least ten (10) years, proof of which shall be provided by the person seeking the change of the lot.

(Section 130, as amended by Ordinance No. 3394, passed July 7, 1987.)

ARTICLE XX. SPECIAL PERMITS

CONDITIONAL USES

SECTION 131. PURPOSE. In all zones, conditional uses may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this ordinance and their effect on surrounding properties. (Sections 131 to 137 repealed and replaced by Ordinance No. 3706 adopted May 18, 2004, effective for permits applied for on and after June 17, 2004)

Note: Section 6 of Ordinance 3706 provides: Section 6: Transition. The repeal, replacement, and amendments of this Ordinance apply to applications for Conditional Uses filed on and after the effective date of this ordinance. The law in effect on the day preceding the effective date of this Ordinance shall remain in effect and govern applications for Conditional Uses filed before the effective date of this Ordinance if the application was complete when first submitted or the applicant submits requested additional information within 180 days of the date the application was first submitted.

SECTION 132. PLANNING COMMISSION AUTHORITY. The Planning Commission shall have the authority to approve, approve with conditions, disapprove or revoke conditional use permits subject to the provisions of this section. Changes in use, expansion or contraction of site area, or alteration of structure or uses classified as conditional and existing prior to the effective date of this ordinance shall conform to all regulations pertaining to conditional uses.

SECTION 133. APPLICATION. The property owner or his authorized agent may make an application for a conditional use permit by filing an application, at least 45 days prior to the meeting date the matter is intended to be considered, with the Department of Planning on a form acceptable to the City, which shall include the following information:

- A. Name and address of applicant.
- B. Statement that the applicant is the owner of the property or is the authorized agent of the owner.
- C. Address, legal description and Umatilla County Assessor's map and tax lot number of the property.
- D. The application shall include an accurate scale drawing of the site and improvements proposed. The drawing must be adequate to enable the planning commission to determine the conformance of the proposal with the requirements of this ordinance.
- E. A map (Umatilla County Assessor's plat) showing the subject property and surrounding properties.
- F. Statement and supportive evidence indicating the precise manner of conformance with each of the applicable provisions of this ordinance together with any other data pertinent to the findings prerequisite to the granting of a conditional use permit as listed in subsection C of Section 135.
- G. The application shall be accompanied by a non-refundable filing fee in the amount established by Section 160, Filing Fees.

SECTION 134. PUBLIC HEARINGS. Before a conditional use is permitted, the proposed conditional use shall be considered by the Planning Commission at a public hearing. Notice of said hearing shall be given as provided in Section 161.

SECTION 135. ACTION BY THE PLANNING COMMISSION.

- A. Within sixty (60) days after the filing of the application, a public hearing shall be held and the Commission shall render its decision. The decision of the Planning Commission shall be final unless appealed to the City Council.
- B. The Planning Commission may approve, approve with conditions or disapprove the conditional use permit application by the entry of a Planning Commission order, in open meeting, which order shall describe the basis for the decision and state the specific circumstances, findings of fact and evidence presented requiring the application of conditions to the approval.
- C. Findings of fact. In order to grant any conditional use, the Planning Commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:
 - (1) The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this ordinance.
 - (2) The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.
 - (3) Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other ordinance standards, or other reasonable conditions of approval.
 - (4) In areas designated as requiring preservation of historic, scenic or cultural resources and attributes, proposed structures will be of a design complimentary to the surrounding area.
- D. Conditions of approval. In permitting a conditional use, the Planning Commission may impose, in addition to regulations and standards expressly specified in this ordinance, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the City as a whole. These conditions may include, but not be limited to, the following:
 - (1) Increasing required lot size, yard dimensions, open spaces or buffer areas.
 - (2) Requiring fences, walls or landscape screening and/or buffering where necessary to reduce noise, glare and maintain the property in a character in keeping with the surrounding area.
 - (3) Requiring landscaping and maintenance thereof.
 - (4) Increasing street widths, controlling the location and number of vehicular access points to the property for ingress/egress.
 - (5) Requiring means of pedestrian/bicycle access pathways to serve the property.
 - (6) Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking areas.

- (7) Limiting size, location and number of signs.
- (8) Limiting the location, coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property.
- (9) Limiting or prohibiting openings in sides of buildings or structures.
- (10) Enclosure of storage areas and limitation of outside display and/or storage of merchandise.
- (11) Requiring maintenance of grounds.
- (12) Regulation of noise, vibration, odors, etc.
- (13) Regulation of time for certain activities.
- (14) Establishing a time period within which the proposed use shall be developed.
- (15) The requirement of a bond for removal of such use within a specified period of time.
- (16) Increase the size, type or capacity of any or all utility services, facilities or appurtenances.
- (17) Requirements under which any future enlargement or alteration of the use shall be reviewed by the Planning Commission and new conditions imposed.
- (18) The Planning Commission may require that an applicant furnish the City a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers or other necessary and essential public improvements to City standards; or an irrevocable consent to participate in an LID for those improvements has been executed.
- (19) And such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purposes set forth in this section.

SECTION 136.1. BURDEN OF PROOF. The specific findings made by the Planning Commission in granting a conditional use permit must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the conditional use. If no evidence is produced concerning any of the findings listed in subsection C of Section 135, the application may be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any conditional use permit application.

SECTION 136.2. ENTRY OF ORDER. Where the Planning Commission is of the opinion that said conditional use permit shall be granted, it shall, in open public meeting, by a majority of its members in attendance, enter a Planning Commission order granting the conditional use permit, which order shall include specific findings of fact, conclusions and supportive evidence pertaining to subsection C of Section 135, and any conditions of approval as authorized by subsection D of Section 135. The chairman of, or in his absence, the officer presiding over the Planning Commission meeting in which the above described order is enacted, shall forthwith sign the order and cause the same to be filed with the City Recorder. Upon the filing of said order with the City Recorder, the order shall be in full force and effect. An order denying a conditional use permit shall be entered and filed in a like manner, with the necessary findings of fact, where the Planning Commission, based on the standards specified herein, determines that the conditional use permit should not be granted.

SECTION 136.3. TIME LIMITATION. A conditional use permit shall become void two (2) years after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises. The Planning Commission may extend a use permit for one additional period of two (2) years, subject to the requirements of this ordinance. No more than one such extension may be granted.

SECTION 136.4. APPEAL. The applicant or any party to the proceeding may, within the time period specified in Section 161, after the decision of the Planning Commission is filed with the City Recorder, appeal the same to the City Council in the form prescribed by the City. The appeal procedure shall be as set forth in Section 156, Appeals.

SECTION 136.5. EFFECT. No building or other permit shall be issued in any case where a conditional use permit is required by the terms of this ordinance until after the appeal period after the decision of the Planning Commission is filed with the City Recorder. An appeal from an action of the Planning Commission shall automatically stay the issuance of a building or other permit until such appeal has been completed. In the event the council acts to grant said conditional use permit, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.

SECTION 136.6. VIOLATION OF CONDITIONS. The Planning Commission, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit after first holding a

public hearing and giving notice of such hearing as provided in Section 161. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a conditional use permit.

SECTION 136.7. LIMITATION ON NEW APPLICATIONS. In a case where an application is denied by the Planning Commission, or denied by the City Council on appeal from the Planning Commission, unless specifically stated to be without prejudice, it shall not be eligible for resubmittal for a period of one (1) year from the date of said denial unless, in the opinion of the Planning Commission, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.

SECTION 136.8. NOTIFICATION OF ACTION. The City Manager or his designee shall notify the applicant, and all participants at the hearing, for a conditional use permit of the Planning Commission's action within five (5) days after entry of the final order. A copy of said order shall be provided to the applicant, and all participants at the hearing.

SECTION 137. USE PERMIT TO RUN WITH THE LAND. A conditional use permit granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application, except as otherwise provided in this section.

VARIANCES

SECTION 138. AUTHORIZATION TO GRANT OR DENY VARIANCES. The Planning Commission shall authorize variances from the requirements of this Ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of the Ordinance would cause an undue or unnecessary hardship. No variance shall be allowed the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission shall attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood or to otherwise achieve the purposes of this Ordinance.

SECTION 139. CIRCUMSTANCES FOR GRANTING A VARIANCE. A variance shall be granted only in the event that all of the following circumstances exist:

A. 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 over which the applicant has no control.

B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possessed.

C. The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.

D. The variance requested is the minimum variance which would alleviate the hardship.

SECTION 140. APPLICATION FOR A VARIANCE. A property owner may initiate a request for a variance by filing an application with the City Manager using forms prescribed pursuant to Section 157 of this Ordinance. The application shall be accompanied by a site plan drawn to scale showing the condition to be varied and the dimensions and arrangement of proposed development. The Planning Commission may request other drawings or material essential to an understanding of the variance request.

SECTION 141. PUBLIC HEARING ON A VARIANCE. Before the Planning Commission may act on a request for a variance, it shall hold a public hearing. Notice of the hearing shall be given in accordance with the provisions of Section 161 of this Ordinance.

SECTION 142. NOTIFICATION OF DECISION. Within five (5) days after a decision has been rendered with reference to a request for a variance, the City Manager shall provide the applicant with written notice of the decision of the Planning Commission.

SECTION 143. TIME LIMIT ON A PERMIT FOR A VARIANCE. Authorization of a variance shall be void after one (1) year unless substantial construction pursuant thereto has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one (1) year per request. (Section 143, as amended by Ordinance No. 3428, passed May 2, 1989.)

SECTION 144. MINOR VARIANCES.

A. **Authorization to Grant or Deny Minor Variances.** The Planning Director may grant a variance to the requirements of this Ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of this Ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Director may attach conditions which are necessary to protect the best interest of the surrounding property or vicinity or otherwise achieve the purposes of this Ordinance.

B. **Minor Variances.** Variances involving the following may be granted by the Planning Director:

- (1) Deviation from setback requirements as follows:
 - (a) Front Yard: 15% or less.
 - (b) Side Yard Abutting a Street: 20% or less.
 - (c) Side and Rear Yards: 40% or less.
- (2) Deviation from lot coverage requirements of 5% or less.
- (3) Deviation from lot size or building height requirements of 10% or less.

C. **Procedure.** Upon receipt of the variance application form and payment of the usual application fee for a variance, the Planning Director shall render a decision within five (5) working days, or may elect to defer the decision to the Planning Commission. Additional information may be requested by the Planning Director in arriving at a decision. If additional information is requested, the Planning Director shall have five (5) additional working days to render this decision beginning when the additional information is given to the Planning Director. The decision shall be made using all of the criteria of Section 139 of this Ordinance.

D. **Notice to Property Owners.** Should the Planning Director decide to grant a minor variance, the decision shall not become final until ten (10) days have elapsed. A notice of the proposed variance shall be mailed within two (2) working days of the decision to all owners of property within 250 feet of the subject property, and objections and comments solicited. If written objections to the proposed variance are received within the ten (10) day period by the Planning Director, a public hearing shall be held according to Section 161 of this Ordinance. If no objections to the variance are received, the decision shall become final and effective at the end of the ten (10) day period. Time limit to start construction shall be as set forth in Section 143 of this Ordinance.

(Section 144, as amended by Ordinance No. 3428, passed May 2, 1989.)

TEMPORARY USES

SECTION 145. TEMPORARY USES. The City Planning Commission shall, upon petition, notice and hearing, recommend to the City Council the granting or denying of a temporary permit to use certain specified property for a purpose not authorized in the zone in which such property is located, subject to such limitations and conditions as are necessary to protect the best interests of the surrounding property or the City as a whole. Such temporary permit may be granted by motion, shall be revocable at the will of the City Council, and subject to such other limitations and conditions as the City Council may impose.

SECTION 146. TEMPORARY USE PERMIT CRITERIA. The City Planning Commission and City Council shall grant a temporary use permit ONLY upon review of ALL the following criteria:

A. The impact of the use is minimized with the provision of landscaped buffers and/or fencing abutting residence, adequate off-street parking plan, and safe public access and vehicular movement.

B. The request is not for more than one (1) year.

C. It must be unanimously approved by the Planning Commission, or City Council (on appeal) in the event that sixty-six and two-thirds (66 2/3) percent or more of the property owners within one hundred (100) feet of the property in question object in writing, before the closing of the public hearing, to the granting of the Temporary Use Permit.

ARTICLE XXI. AMENDMENTS

SECTION 147. AUTHORIZATION TO INITIATE AMENDMENTS. An amendment to the text of this Ordinance or to a zoning map may be initiated by the City Council, the Planning Commission or by application of the property owner for an amendment by filing an application with the City Manager using forms prescribed pursuant to Section 157 of this Ordinance.

SECTION 148. COMPLIANCE WITH COMPREHENSIVE PLAN. An amendment to the text of this Ordinance or to a zoning map shall comply with the provisions of the City of Pendleton Comprehensive Plan text and Comprehensive Land Use Map. Any deviation from this section shall be preceded by an amendment to the Comprehensive Plan Text or to the Comprehensive Land Use Map.

SECTION 149. PUBLIC HEARING ON AMENDMENTS. The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures of Section 161 of this Ordinance at its earliest practicable meeting after it is proposed and shall, within forty (40) days after the hearing, recommend to the City Council approval, disapproval or modification of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment and render a final decision within one hundred twenty (120) days after application submittal unless longer review is agreed upon by the City and applicant. Public hearings on amendments encompassing lands of a mobile home park shall be conducted after notification of park tenants at least twenty (20) but no more than forty (40) days prior to the hearing.
(Section 149, as amended by Ordinance No. 3428, passed May 2, 1989.)

SECTION 150A. ZONING MAP. An amendment to the text of this Ordinance or to a zoning map shall comply with the provisions of the City of Pendleton Transportation System Plan. More intense development may be permitted where amendments to this Ordinance include amendments to the performance standards for the facility to allow such intense development. No amendments may allow land uses or levels that are inconsistent with the functional classification of an existing or planned transportation facility. (Section 150A, as added by Ordinance No. 3745, passed June 19, 2007.)

SECTION 150. RECORD OF AMENDMENTS. The City Recorder shall maintain records of amendments to the text and zoning map of this Ordinance in a form convenient for use by the public.

ARTICLE XXII. ADMINISTRATIVE PROVISIONS

SECTION 151. POLICY OF NONDISCRIMINATION. Age, gender/race or physical disability shall not be an adverse consideration in making a land use decision as defined in Oregon Law.
(Section 151, as amended by Ordinance No. 3428, passed May 2, 1989.)

SECTION 152. COMPLIANCE WITH ORDINANCE PROVISIONS.

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

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

C. No lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard, or open space for another use.

[SECTION 153 repealed by Ordinance No. 3690, passed April 20, 2004]

SECTION 154. ILLEGAL OCCUPANCY. Any use of a premise or building which deviates from or violates any of the provisions of this Ordinance shall be termed an illegal occupancy and the person or persons responsible therefore shall be subject to the penalties herein provided.

SECTION 155. CONTRACT PURCHASERS DEEMED OWNERS. A person or persons purchasing property under contract, for the purposes of this Ordinance, shall be deemed to be the owner or owners of the property covered by the contract; the City Planning Commission or the City Council may require satisfactory evidence of such contract of purchase.

SECTION 156. APPEALS.

A. An appeal from a ruling of the City Planner regarding a requirement of this Ordinance may be made only to the Planning Commission by filing a letter of appeal with the City Planner.

B. An action or ruling of the Planning Commission pursuant to this Ordinance may be appealed to the City Council within seven (7) days after the Planning Commission has mailed its decision. Persons who may file an appeal are: (1) The applicant who initiated the action before the Planning Commission; or (2) Persons who appeared before the Planning Commission orally or in writing. Written notice of the appeal shall be filed with the City Manager. If the appeal is not filed within the seven (7) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal.
(Section 156, as amended by Ordinance No. 3428, passed May 2, 1989.)

Comment [COMMENT2]:

SECTION 153. PERMITS. No vacant land shall be occupied or used, nor any building hereafter erected, nor shall the use of a building be changed from a use limited to one zone to that of any other zone as defined by this Ordinance until a building permit shall have been issued by the Building Inspector. No excavation or laying foundation shall occur before application has been made for a building permit. In all identified flood hazard subdistricts; Zone A1-30, AO and un-numbered A zones, a development permit shall be required for all structures and land use including, but not limited to, mobile homes and for other development such as mining, dredging, filling, grading, excavation or drilling.

SECTION 157. SUBMITTAL, REVIEW TIME TABLE AND BURDEN OF PROOF FOR APPLICATIONS.

A. The City of Pendleton provides a consolidated procedure by which an applicant may apply at one time for all land use permits needed for a development project. All applications provided for in this Ordinance shall be made on forms prescribed by the City. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the sizes and locations on the lot of the buildings and other structures, existing and proposed, the existing and intended use of each building, structure or part thereof, the number of families, if any, to be accommodated thereon, the relationship of the property to the surrounding area, and such other information as is needed to determine conformance with this Ordinance. All applications shall be submitted to the Department of Planning and Building no later than twenty (20) days before the Planning Commission meeting at which action is desired. Such applications shall be reviewed and either approved, modified, or disapproved, in writing within forty (40) days after submission, unless a longer period of time can be agreed upon (by the Planning Commission and applicant) to allow for recessing to consider additional information, testimony, or other unforeseen circumstances. Applications involving City Council approval or appeals wholly within the authority and control of the City shall be processed to final action within one hundred twenty (120) days, unless extended on agreement of the applicant and City.

B. Incomplete applications shall be dealt with as set forth in Oregon Law.

C. The applicant has the burden of proof regarding all requests affecting a subject property, and the applicant recognizes that it is the sole obligation of the applicant to substantiate the request.

If any administrative review, suit or action is instituted in connection with any appeal of a decision, the applicant shall be required to either (1) reimburse the City for all costs incurred in defending this action, including but not limited to attorney fees, staff costs, any materials and other related costs, or (2) notify the City that the applicant does not desire to undertake such costs and will drop its request.

The applicant shall notify the City Manager within five (5) days from City's receipt of any notice of appeal by delivering a written statement to the City Manager within said five (5) days advising the City Manager whether the applicant will reimburse the City for all costs as described above or desires to drop the request.

In the absence of written communication from the applicant within the allotted five (5) days the City may at its option presume the applicant desires to drop the request and the City shall have no obligation to defend the appeal.

In appeals involving questions of City-wide significance, the City Council may determine to participate in part of the costs specified herein. Nothing in this condition shall affect applicant's right to retain independent counsel in making their own legal appearance upon appeal.

If any suit or action, including rescission, is instituted by the applicant in connection with any controversy arising out of a request, there shall be taxed and allowed to the City as a part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and upon appeal. In addition, the City may charge a fee for preparation of a written transcript, not to exceed the actual cost of preparing the transcript, up to \$500 plus one-half the actual costs over \$500. (Section 157, as amended by Ordinance No. 3428, passed May 2, 1989.)

SECTION 158. APPLICABILITY OF ZONING REGULATIONS.

A. Private agreements. The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant or other agreement between parties, except that where the zoning regulations impose a restriction or high standard than that required by such agreement the zoning regulations shall control.

B. The boundaries of the zone are hereby established as shown on the official zoning map of the City of Pendleton, Oregon, which accompanies this Ordinance and is on file in the office of the City Recorder.

C. Unless otherwise shown on the zoning map of the City, the boundaries of the zone are lot lines, center lines of streets and alleys, railroad right-of-way lines or corporate limit lines as they existed at the time of the enactment of this Ordinance. (If a zone boundary as shown on the map divides a lot between zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot is.)

SECTION 159. ZONING OF ANNEXED AREAS. All areas annexed to the City shall be zoned in accordance with the Comprehensive Plan. The Planning Commission and City Council shall review said zoning during the public hearing for the annexation. If the zoning requested does not comply with the Comprehensive Plan, the procedure for Comprehensive Plan amendments must be followed. The zoning of vacated streets shall be accomplished as set forth in this Section.

SECTION 160. FILING FEES. The following fees shall be paid to the City upon filing for an application. Such fees shall not be refundable. Fees shall be doubled if the start of construction occurs prior to application for the permit.

- | | |
|--|-----------|
| A. Variance | \$ 200.00 |
| B. Conditional Use (Other than Home Occupations) | 200.00 |

C. Amendment (Text and/or Map)	300.00
D. Planned Unit Development	500.00
E. Temporary Use	300.00
F. Appeal (of any Planning Commission action)	200.00
G. Mixed Land Use Development	500.00
H. Parking Lot Permit	65.00
I. Limited Use Development	300.00
J. Home Occupation:	
Administrative Review with Notice	25.00
Planning Commission Hearing	50.00

Local Enterprise Zone Incentive. A business which is precertified by the City as a "qualified business firm," in accordance with the Oregon Enterprise Zone Act, shall not be required to pay the above fees during the time period the business qualifies for the property tax exemption. This local enterprise zone incentive subsection shall automatically terminate on July 1, 2007, and be of no further force nor effect after that date unless extended by action of the City of Pendleton or State of Oregon.

(Section 160, as amended by Ordinance No. 3384, passed March 17, 1987; Ordinance No. 3428, passed May 2, 1989; Ordinance No. 3435, passed August 1, 1989; Ordinance No. 3453, passed February 20, 1991; Ordinance No. 3511, passed December 6, 1994; Ordinance No. 3529, passed December 19, 1995; Ordinance No. 3558, passed March 18, 1997; and Ordinance No. 3566, passed August 5, 1997.)

SECTION 161. NOTICE AND CONDUCT OF PUBLIC HEARING.

A. Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

(1) Within two hundred fifty (250') feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary or where the subject property is outside of urban growth boundary and not within a farm or forest zone; or

(2) Within five hundred (500') feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

B. The notice provided by the City shall:

(1) Explain the nature of the application and the proposed use or uses which could be authorized;

(2) List the applicable criteria from the ordinance and the plan that apply to the application at issue;

(3) Set forth the street address or other easily understood geographical reference to the subject property;

(4) State the date, time and location of the hearing;

(5) State that failure of an issue to be raised by the close of the record at or following the final evidentiary hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;

(6) Be mailed at least:

(a) Twenty (20) days before the evidentiary hearing; or

(b) If two (2) or more evidentiary hearings are allowed, ten (10) days before the first evidentiary hearing;

(7) Include the name of a City representative to contact and the telephone number where additional information may be obtained;

(8) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable cost;

(9) State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and copies will be provided at reasonable cost; and

(10) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

C. All documents or evidence relied upon by the applicant shall be submitted to the City and be made available to the public at the time notice is provided. Persons other than the applicant may submit documents or evidence: (1) in support of the application -- as late as the hearing itself; (2) in opposition to the application -- (a) at the hearing, and (b) for at least seven (7) days after the hearing if someone other than the applicant submits documents or evidence in support of the application or a participant at the initial hearing asks before the hearing concludes that the record be kept open. The applicant and other persons who have participated at the initial hearing may submit documents or evidence rebutting evidence submitted in opposition to the application; (1) at the hearing; and (2) for at least seven (7) days after the hearing if a participant at the initial hearing asks before the hearing concludes that the record be kept open.

D. Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of Oregon Law, including ORS 215 or 227.

E. At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:

(1) Lists the applicable substantive criteria;

(2) Testimony and evidence must be directed toward the criteria described in paragraph (1) of this subsection or other criteria in the plan or land use regulations which the person believes to apply to the decision;

(3) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised in person or by letter not later than the close of the record or following the final evidentiary hearing on the proposal before the local government. Failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue;

(4) If a participant at the hearing so requests before the hearing concludes, the record shall be kept open for at least seven (7) days -- unless there is a continuance; and

(5) Any party shall be entitled to a continuance of the hearing if persons other than the applicant submit documents or evidence in support of the application supplementing the documents or evidence submitted by the applicant.

F. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing. Such an extension shall not be subject to the limitations of ORS 215 and 227.

G. When the Planning Commission, or City Council reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

H. The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

(Section 161, as amended by Ordinance No. 3428, passed May 2, 1989; and Ordinance No. 3440, passed March 20, 1990.)

SECTION 162. DUTY OF ENFORCEMENT. It shall be the duty of the City Manager to see that this Ordinance is enforced. No permit for the construction or alteration of any building or part thereof shall be issued unless the plans, specifications and intended use of such building conform in all respects with the provisions of this Ordinance.

All applications for building permits shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, the use, and location of existing buildings and buildings to be erected, and such other information as may be necessary to provide for the enforcement of this Ordinance. Except that those applications for maintenance, requiring building permits, shall provide such information as may be deemed necessary by the City for the enforcement of this Ordinance. A copy of such application and plats shall be kept on file in the records of the City of Pendleton.

The provisions of this Ordinance shall be deemed minimum requirements for the preservation of the public safety, health, convenience, comfort, prosperity and general welfare of the people of the City of Pendleton.

SECTION 163. AGREEMENTS FOR CONDITIONAL APPROVALS. Conditions imposed upon rezoning approvals, discretionary permits, or any other authorizations to applicants pursuant to this Ordinance, may be incorporated into an agreement which shall be binding on the applicant and the applicant's successors, heirs and assigns as a continuing obligation running with the property which is the subject of such authorization. The Mayor and City Recorder are hereby authorized to execute such agreements when approved by the Planning Commission in the case of discretionary permits, or by the City Council in the case of rezoning ordinances, appeals on discretionary permits, or other authorizations requiring Council action.

SECTION 164. INTERPRETATION. Where the conditions imposed by any provision of this Ordinance are less restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other ordinance, the provisions which are more restrictive shall govern.

SECTION 165. SEVERABILITY. The sections of this Ordinance are severable. The validity of a section shall not affect the validity of the remaining sections.

SECTION 166. UNLAWFUL CONSTRUCTION OR USE A NUISANCE. The location, erection, construction, maintenance, repair, alteration or use of a building or other structure, or the subdivision, other partitioning, or use of land, in violation of the terms of this Ordinance is hereby declared to be a nuisance, under the provisions of Ordinance No. 2422 (Nuisance Ordinance).

SECTION 167. REMEDIES FOR UNLAWFUL STRUCTURES. In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered or used, or any land is, or is proposed to be, used in violation of this Ordinance, the City Council or any person whose interest in real property in the City is, or may be affected by the violation, may, in addition to other remedies provided by law, institute proceedings for an injunction, mandamus, abatement, or

other appropriate action or suit to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

SECTION 168. VIOLATIONS AND PENALTIES.

A. A violation of this Ordinance shall be punishable by a fine not to exceed Five Hundred and No/100 (\$500.00) Dollars.

B. Every full day during which an activity continues to be conducted in violation of this Ordinance shall be considered a separate offense.

C. Offenses under this Section shall be tried in the Municipal Court as a violation and not as a crime. As a violation there is no right to jury trial or court appointed counsel.

D. Confiscation. Any building or structure erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, demolished, equipped, used, occupied or maintained in violation of this Ordinance may be confiscated by the City and, may be disposed of as provided by applicable State law or City ordinance.

E. Additional Remedies.

(1) In addition to the penalties provided in this Ordinance, the City may sue in a court of competent jurisdiction to obtain a judgment for a fee due under this Ordinance and to enforce collection of the judgment by execution.

(2) The City may seek an injunction to prohibit a person from erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, demolishing, equipping, using, occupying or maintaining any building or structure without complying with this Ordinance.

(3) In an action authorized by this Section, if the City prevails, it shall recover reasonable attorney's fees to be set by the Court in addition to its costs and disbursements. These fees are recoverable at all levels of trial and appeal.

(4) Whenever a fee required by this Ordinance is not paid when due, the City Recorder shall add as a penalty to the fee an amount equal to ten (10%) percent of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed one hundred (100%) percent of the original fee.

(Section 168, as amended by Ordinance No. 3305, passed August 21, 1984.)

SECTION 169. REPEAL. Ordinances No 2422 (Section 16C), 2484, 2675, 2748, 2826, 2893, 2935, 2936, 2953, 2962, 3006, 3008 (Section 16) and 3156 (Section 17) are repealed.

[SECTIONS 170-175 Reserved for Expansion.]

PASSED and approved January 27, 1983.

SECTION 75. PURPOSE. The purpose of the Flood Hazard Subdistrict F-H shall be to comply with the National Flood Insurance Program, promote and protect the public health, safety and general welfare and to minimize flood losses by provisions designed to:

A. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause increased flood heights or velocities;

B. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction;

C. Protect individuals from buying lands which are unsuited for some purposes because of flood hazard.

(Section 75, as amended by Ordinance N° 3428, passed May 2, 1989.)

SECTION 76. COMPLIANCE. A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used in a Flood Hazard Area only as this Ordinance and the National Flood Insurance Program permits.

(Section 76, as amended by Ordinance N° 3428, passed May 2, 1989.)

SECTION 77. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

SECTION 78. LOCATION OF FLOOD HAZARD AREAS.

A. The boundaries of areas delineated as Flood Hazard Areas in the City of Pendleton shall be the boundaries of those areas within the City limits designated on the Flood Insurance Rate Maps adopted by the Department of Housing and Urban Development Flood Insurance Administration effective February 19, 1987, and revised on July 15, 1988. The boundaries of areas shall also include any future additions to the City to which official Flood Insurance Rate modifications are made thereto, and shall also include, for purposes of jurisdiction under the Pendleton-Umatilla County Joint Management Agreement approved by the Land Conservation and Development Commission, all flood hazard areas located within the urban growth boundary of the City of Pendleton.

B. The City Manager, or designee, shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A be constructed, improved or developed in accordance with the provisions of this Article (Flood Hazard Subdistrict (F-H)). When no base elevation exists the building permit application shall be reviewed to assure proposed construction is reasonably safe from flooding.

(Section 78, as amended by Ordinance N° 3376, passed March 3, 1987; and Ordinance N° 3428, passed May 2, 1989; Ordinance No. 3664, passed May 21, 2002.)

SECTION 79. ZONING MAP. The official Flood Plain Zoning Map for the City of Pendleton with all explanatory matter thereon and attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The official copy shall have the same effective date as this

Ordinance and shall be signed by the Mayor and City Recorder and shall be maintained on file in the office of the City Recorder.

SECTION 80. LIMITATIONS ON ALL USES. No structure (temporary or permanent), fill including fill for roads and levees, deposit, obstruction, storage of materials or equipment, encroachment, new construction, substantial improvement or other uses or development shall be permitted in the adopted regulatory floodway of a Flood Hazard Area unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. The City shall notify adjacent communities and the state coordinating agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration and require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
(Section 80, as amended by Ordinance N° 3562, passed May 20, 1997.)

SECTION 81. LIMITATIONS ON FILL.
A. Any fill proposed to be deposited in a Flood Hazard Area must be shown to have some beneficial purpose and the amount must not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted according to Section 84 of this Ordinance;
B. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulkheading.

SECTION 82. LIMITATIONS ON STRUCTURES.
A. The lowest floor elevation, including the basement, of a new or substantial improvement of an existing structure designed for human occupancy shall be at least one (1') foot above the elevation of an Intermediate Regional Flood. Human occupancy includes a residential, commercial or industrial use but excludes a storage or warehouse building not in daily use.
B. The portions of a new or substantial improvement of an existing structure below an elevation one (1') foot above the elevation of an Intermediate Regional Flood shall:
(1) Be floodproofed so that below the base level the structure is water-tight with walls substantially impermeable to the passage of water;
(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
(3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the City.
C. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding 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: A minimum of two 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
D. Where a non-residential structure is intended to be made watertight

below the base flood level, (a) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this article (Flood Hazard Subdistrict, F-H) and (b) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the City Manager.

E. In the case of land subdivision, new and existing, each lot intended as a site for a structure for human occupancy shall contain a building site and access road with a ground elevation no lower than one (1') foot below the elevation of an Intermediate Regional Flood; be accessible to a roadway no portion of which is less than one (1') foot below the elevation of an Intermediate Regional Flood; and be served by sewer and water supply systems designed and constructed to not create a health hazard during inundation by an Intermediate Regional Flood; replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system; and any on-site waste disposal systems existing or permitted shall be located to avoid impairment to them or contamination from them during flooding;

F. A permitted structure shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow and shall be placed approximately on the same flood flow lines as those of adjoining structures;

G. Anchoring:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(2) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

(a) Over-the-top ties be provided at each of the four corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50') feet long requiring one (1) additional tie per side;

(b) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50') feet long requiring four (4) additional ties per side;

(c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,

(d) Any additions to the manufactured home be similarly anchored;

(3) An alternative method of anchoring may involve a system designed to withstand a wind force of ninety (90) miles per hour or greater, an engineers certification shall be provided to the City, that this standard has been met;

(4) Alternative methods of anchoring are as set forth in the Federal Emergency Management Agency manual entitled "Manufactured Home Installation in Flood Hazard Areas," published in September of 1985, and on file in the City of Pendleton Planning and Building Department.

H. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

I. Manufactured Homes:

(1) Manufactured homes shall be anchored in accordance with Section 82(G).

(2) For new manufactured home parks and manufactured home subdivisions; for expansions to existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty (50%) percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, and for manufactured homes not placed in a manufactured home park or manufactured home subdivision, require that:

(a) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level;

(b) Adequate surface drainage and access for a hauler are provided; and

(c) In the instance of elevation on pilings, that:

-- lots are large enough to permit steps, -- piling foundations are placed in stable soil no more than ten (10') feet apart, and -- reinforcement is provided for pilings more than six (6') feet above the ground level;

(3) No manufactured home shall be placed in an established Floodway, until proven to meet the floodway encroachment standards of the National Flood Insurance Program and this article (Flood Hazard Subdistrict, F-H).

(4) All manufactured homes placed or substantially improved in existing manufactured home parks or subdivisions shall be elevated on reinforced piers or other foundation elements that are no less than thirty (36") inches in height above grade or have their lowest floor at or above the base flood elevation, if this allows for the use of a lower foundation.

(5) A manufactured home which incurs substantial damage as the result of a flood, must be elevated to or above the base flood elevation.

(6) Vacation trailers may be occupied on a site in a Flood Hazard Area for period of up to forty-five (45) consecutive days providing they are fully licensed and highway ready. Vacation trailers that do not meet these criteria become manufactured homes and must be anchored and elevated pursuant to this Ordinance.

(Section 82, as amended by Ordinance N° 3376, passed March 3, 1987; and Ordinance N° 3440, passed March 20, 1990.)

SECTION 83. LIMITATIONS ON STORAGE OF MATERIAL AND EQUIPMENT.

A. The storage or processing of materials that are buoyant, flammable, explosive or that could be injurious to human, animal or plant life in time of flooding is prohibited in a Flood Hazard Area;

B. Storage of other material or equipment may be allowed in a Flood Hazard Area if not subject to major damage by flood, if firmly anchored to prevent flotation, or if readily removable from the area within the limited time available after flood warning;

C. Accessory Structures may be allowed in the Flood Hazard Area, exempt from elevation and flood-proofing standards, providing the accessory structures are:

- (1) Not more than 280 square feet in floor area;
- (2) Not used for human occupancy;

- (3) Designed to have low flood potential;
 - (4) Constructed and placed on a building site so as to offer minimum resistance to the flow of flood waters;
 - (5) Firmly anchored to prevent flotation which may result in damage to other structures; and
 - (6) Designed so that all services facilities such as electrical and heating equipment is elevated or flood-proofed.
- (Section 83, as amended by Ordinance N° 3486, passed May 18, 1993.)

SECTION 84. PROCEDURE. In a Flood Hazard Area, a lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied or used only after the following requirements have been met:

A. An applicant shall submit with his application for a building or development permit sufficient evidence to indicate that the proposed development will result in a finished floor elevation and access to the property that is at least 1.00 foot higher than the elevation of an Intermediate Regional Flood. This evidence shall include sketches showing:

- (1) The nature, location, dimensions and elevation of the lot, and its relationship to the location of the channel;
- (2) Development plan showing existing and proposed elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevation of streets and all existing and proposed underground utilities;
- (3) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sections of areas to be occupied by the proposed development, and high water information;
- (4) Profile showing the slope of the bottom of the channel or flow line of the stream;
- (5) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvements, storage of materials, water supply, and sanitation facilities;
- (6) 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;
- (7) For all new or substantially improved floodproofed structures:
 - (a) Verify and record the actual elevation (in relation to mean sea level), and
 - (b) Maintain the flood proofing certifications;

B. An applicant shall submit with his application for a building or development permit sufficient evidence to enable the City Manager, or designee, to review his construction methods and materials to determine that minimum flood damage will occur in the event of inundation. This evidence shall enable the City Manager, or designee, to determine that:

- (1) Proposed repairs and renovations will use materials and equipment that are resistant to flood damage, and construction methods and practices that will minimize flood damage;
- (2) New construction (including prefabricated and mobile homes) will be protected against flood damage, will be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure, will use materials and equipment that are resistant to flood damage, and will use construction methods and practices that will minimize flood damage;

C. All applications shall be reviewed to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
(Section 84, as amended by Ordinance N° 3376, passed March 3, 1987; and Ordinance N° 3428, passed May 2, 1989; Ordinance No. 3664, passed May 21, 2002.)