

SUBCHAPTER 10: GENERAL PROVISIONS

10.005 Title

This ordinance shall be known as the Independence Development Code.

10.010 Purpose

The purpose of this ordinance is to provide procedures for dividing the City of Independence into zones and to provide requirements governing the use of land within those zones. Such zones shall be established in accordance with a comprehensive plan and shall be designed to implement that plan.

10.015 Authority

This zoning ordinance is established under the provisions of Oregon Revised Statutes, Chapter 222.

10.020 Compliance With Zoning Ordinance

Land may be used only as this ordinance permits. A structure or part of a structure may be constructed, erected, enlarged, or used only as this ordinance permits.

10.025 Zone Designations

The City of Independence is hereby divided into zones. The zones established by this ordinance shall be as follows:

- | | | |
|----|---|--------|
| A. | Low-Density Residential | (RS) |
| B. | Medium-Density Residential | (RM) |
| C. | High-Density Residential | (RH) |
| D. | Mixed-Density Residential | (MX) |
| E. | Mixed Use Pedestrian Friendly Commercial
& Downtown Overlay Zone | (MUPC) |
| F. | Downtown Riverfront Zone | (DRZ) |
| G. | Light Industrial | (IL) |
| H. | Heavy Industrial | (IH) |
| I. | Industrial Park | (IP) |
| J. | Residential Single Family Airpark Overlay | (RSA) |
| K. | Public Services | (PS) |
| L. | Willamette Greenway Development District | (GD) |
| M. | Agriculture Zone | (AG) |
| N. | Airport Development District | (ADD) |
| O. | Airport Safety & Compatibility Overlay | (ASCO) |

10.030 Official Zoning Map

A. The boundaries for each zone listed in this ordinance shall be identified on the official zoning map of the City of Independence, hereby adopted as Exhibit A.

B. The official zoning map shall be dated with the effective date of this ordinance and signed by the mayor and the chairperson of the City Planning Commission. The City Recorder or authorized representative shall maintain the official zoning map, making updates to the map upon Council passage of zoning map changes.

C. Whenever any uncertainty exists as to the boundary of a district shown on the official zoning map, the following regulations shall apply:

1. Where a boundary line is shown as following a street or alley, it shall be construed to follow the center line of such right-of-way;

2. Where a boundary line follows or approximately coincides with a lot or property ownership line, it shall be construed to follow such line;

3. Where a boundary line is not shown as following or approximately coinciding with a street, alley, lot line, or property ownership line, the boundary line shall be determined by the use of the scale shown on the official zoning map;

4. Where a boundary line coincides with a city limits line, the district boundary shall be construed as following the city limits.

D. Zoning map amendments shall be made by the City Manager or an authorized representative with the authorization of the Mayor and City Council pursuant to the provisions of this ordinance. All map amendments shall refer to the date and ordinance number authorizing such change.

10.040 Amendment of Development Code

Any amendment of the text of this development code shall be accomplished by ordinance of the City Council. Proposals for such amendments shall be submitted to the Planning Commission for public hearing. The Planning Commission shall submit to the City Council its written recommendation regarding the proposed amendment. Such recommendation shall be submitted to the City Council within 30 days of the Planning Commission's action on the proposed amendment. Notice shall also be provided to state land use agencies in accordance with statutory requirements. This is a Type IV action – See 11.002 (D).

10.045 Planning Commission

A. The Planning Commission shall have the power and the duty to hear and act upon requests for zone changes, plan amendments, variances, conditional uses, planned unit developments, and manufactured dwelling parks, and other land use actions in accordance with the procedures set forth in this ordinance.

B. The Planning Commission shall have the power and duty to interpret this ordinance:

1. When, in the administration of this ordinance there is doubt regarding the intent of the ordinance, the Planning Commission may issue an interpretation of the ordinance if they first determine that such interpretation is within their power and is not a legislative act. Any interpretation of the ordinance shall be based on the following:

- a) The purpose and intent of the ordinance as applied to the particular section and question;
- b) The opinion of the City Attorney and City Manager or designee when requested by the Planning Commission.

2. The Planning Commission may decide that the interpretation of the question is not within their power or that there is insufficient basis upon which to make an interpretation and may, when necessary, propose an amendment to the ordinance.

3. Any interpretation shall be forwarded to the City Council for its information. Copies of the interpretation shall also be furnished to each Planning Commissioner and to the City Manager or designee. When such interpretation is of general public interest, copies of such interpretation shall be made available for public distribution, when so directed by the Planning Commission.

10.050 Similar Uses

The Planning Commission may permit in any zone any use not described or listed in this ordinance for any other zone if, in the opinion of the Commission, the requested use is of the same general type as and is similar to the uses permitted in that zone. Such review and permission shall be made in the same manner as other interpretations of this ordinance.

10.055 Nonconforming Uses

A. Within the zones established by this ordinance or amendments to it there may exist lots, parcels, structures, uses, and activities which were lawful prior to the adoption of this ordinance, but which are prohibited or restricted under these more recent regulations. It is the intent of this section that such are existing nonconforming lots, parcels, structures, uses, and activities shall be permitted to continue until they are removed, destroyed, or abandoned. Such nonconforming lots, parcels, structures, uses, and activities, however, are declared by this section to be incompatible with the uses and activities permitted in the same zone under this ordinance; their continued existence is not encouraged, and they shall not be enlarged or extended beyond the area, size, or scope of activity that existed at the time they become nonconforming.

B. In the event that a pre-existing nonconforming use or structure is damaged to an extent greater than 60% of its assessed true cash value, it shall not be reconstructed unless it shall conform to the provisions of this ordinance. Notwithstanding the prior sentence, a destroyed residential structure at a higher density or of an alternative housing type than is allowed in the underlying zone may be reconstructed at the same density, height and housing type so long as: 1) building permits for such reconstruction are approved within 12 months of destruction; 2) the reconstruction is no more nonconforming than the destroyed structure; and 3) all other applicable criteria, including but not limited to floodplain considerations and setback requirements, are met.

C. If a pre-existing nonconforming use, activity, or structure has been abandoned or discontinued for a period of 12 consecutive months or more, any subsequent use of the property shall comply with the provisions of the zone affecting that property.

10.060 Interpretation

The provisions of this ordinance shall be held to be the minimum requirements fulfilling the ordinance's objectives. In the event that some of the requirements imposed by any other provisions of this ordinance or any other ordinance, resolution, or regulation, the requirements which are more restrictive shall govern.

10.065 Severability

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

10.075 Zoning of Annexed Areas

Zoning regulations applicable to an area prior to its annexation to Independence shall continue to apply and shall be enforced by the City until the City Council changes the zoning. The Planning Commission shall investigate thoroughly and expeditiously the annexed property and recommend the appropriate zone to the City Council for adoption.

10.080 Fees

A. Fees shall be required for the following applications in order to defray partially the expenses involved in processing such applications:

1. Zone Change
2. Variance
3. Conditional Use
4. Planned Unit Development
5. Manufactured Dwelling Park

6. Plan Amendment
7. Partition
8. Subdivision
9. Site Design Review
10. Lot Line Adjustment
11. Expedited Land Division
12. Floodplain Development Permit
13. Willamette Greenway Permit
14. Downtown Overlay Design Review

B. The amount of the fees for the applications listed above shall be established by resolution of the City Council. A list describing such fees shall be posted and maintained in the office of the City Manager.

C. All fees shall be nonrefundable except in cases when the processing of an application ceases before the incurring of any substantial expenses for typing, mailing, site inspection, or other work by the City.