CITY OF INDEPENDENCE

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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
15. Pre-Application Conference

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.

SUBCHAPTER 11: ADMINISTRATIVE PROVISIONS

11.001 Pre-Applications Required

To determine whether an application is subject to this chapter, and the requirements of the Independence Municipal Code, Independence Development Code, and Public Works Design Standards that apply, the following types of development require a pre-application conference:

A. Development on an existing lot of record except for:

1. A lot within a subdivision that has been approved within the previous five years; or
2. An accessory structure that is under 400 square feet in size.

B. Changes of occupancy or additions to industrial, commercial, or public uses.
C. Divisions of land.

The pre-application conference is intended to communicate the standards that apply to a proposal and the approvals that are necessary.

11.002 Applications and Review Procedures

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

A. Type I Action

A Type I action is a ministerial action reviewed by staff based on clear and objective standards. Clear and objective conditions may be placed on the decision, and notice of the decision is sent to the applicant and any interested party who requests a copy of the decision. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

1. Lot Line Adjustment
2. Floodplain Permit
3. Site Design Review
4. Minor Partition
5. Administrative Variance
6. Willamette Greenway Administrative Review
7. Downtown Overlay Design Standards Review
8. Home Occupation.

B. Type II Action

A Type II action is a quasi-judicial review in which the Planning Commission

applies a mix of objective and subjective standards that allow considerable discretion. Public notice is provided pursuant to Section 11.025. A public hearing is required for Type II actions unless otherwise specified. Appeal of a Type II decision is to the City Council. The following actions are processed under the Type II procedure:

1. Variance, including Floodplain Variances
2. Conditional Use Permit
3. Major Partition
4. Subdivision
5. Planned Unit Development
6. Similar Use Determination
7. Downtown Overlay Design Guidelines Review
8. Site Design Review applications for commercial/industrial developments with more than 40,000 square feet of total gross floor area.

C. Type III Action

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards, and makes the final, local decision. The Planning Commission plays an advisory role. Public notice is provided and, except as noted in subsection (4), public hearings are held before both the Planning Commission and City Council. Sections 11.025 and 11.030 list the notice and hearing requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

1. Zone Change
2. Comprehensive Plan Map Amendment
3. Annexation and Zone Change when requested concurrent with one another. The City Council reviews such a request without review or recommendation by the Planning Commission.

D. Type IV Action

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties may request a Type IV action; however, it must be initiated by the Planning Commission, or City Council. The City Council makes the final, local decision. Sections 11.025 and 11.030 list the notice and hearing requirements.

1. Amendments and Revisions of the Comprehensive Plan
2. City Plan Document Adoption, e.g. Water System Plan
3. Zoning Code Amendments

E. Middle Housing Land Divisions.

Middle Housing Land Divisions shall be processed in accordance with the procedures described in Section 90.115 of this code. Approval of a Middle Housing Land Division constitutes approval of development but is not considered to be a land use or limited land use decision.

11.005 Applications for Land Use Actions

Applications for all land-use actions as defined in this ordinance shall be filed with the City Manager or designee. An application shall be submitted in writing on the form provided by the City Manager and shall include the following:

A. Name, address and telephone number of the applicant;

B. Name, address, and telephone number of the owner of record of the subject property;

C. Name, address, and telephone number of any agent acting on behalf of the applicant;

D. Township, range, section and tax lot number of the subject property;

E. A legal description of the property;

F. A list of all property owners of record within the notification area of the subject property;

G. A map showing all properties within the notification area and any other information pertinent to the request;

H. The fee for the land-use action, as determined by resolution of the City Council;

I. Other information required by this ordinance or deemed necessary by the City Manager or Planning Commission.

11.010 Persons Who May Apply for a Land Use Action

An application for a land-use action may be filed by any of the following:

A. The owner of record of the property that is the subject of the request;

B. A contract purchaser of the subject property, provided that a written statement of the owner of record's consent to the request accompanies the application;

C. A lessee of the subject property, provided that a written statement of the owner of record's consent to the request accompanies the applications; or

D. The agent of any of the above persons. A written statement of the owner of record's consent to the request and a written statement that the agent is authorized to act on behalf of the applicant must accompany any application made by an agent.

11.015 General Provisions

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

A. The City staff shall prepare a written report relating to all applications and actions pursuant to this Ordinance.

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

C. Citizen and Agency Involvement. The City shall provide opportunities for public and agency input in the planning process. The City shall give notice to:

(1) the Oregon Department of Transportation (ODOT) regarding any proposed land use action within 250 feet of, or affects private access to, a State transportation facility and
(2) the public works department of any jurisdictions (for example, Polk County), when any action by the City could potentially affect another jurisdiction's transportation facilities.
(3) ODOT, Polk County and the City of Monmouth of any land use applications that require public hearings or subdivision and partition applications.
(4) Oregon Department of Aviation of applications within airport noise impact boundaries and imaginary surfaces that affect airport operations.

Information conveyed to reviewing agencies and jurisdictions shall include the project location, proposed land use action, and the location of project access points.

D. Consolidated Review of Applications. When an applicant applies for more than one type of land use action for one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one land use action is reviewed in a hearing, separate findings and decisions shall be made on each

land use action.

E. Ministerial Actions – Type I. This subsection establishes the procedures to be followed in Type I actions. Applications subject to ministerial review shall be reviewed and decided by the City Manager's designee.

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

2. Completeness: Upon receipt of an application for a development permit, the City staff shall review the application for completeness with respect to the submission requirements of this Ordinance. If the application is incomplete, staff shall notify the applicant of exactly what information is missing within 30 days of the receipt of the application, and allow the applicant to submit the missing information. The application shall not be acted upon until:

a. All necessary information is received and the application is deemed complete.

3. Within 180 days of receipt of staff's completeness determination, the applicant shall submit:

(a) All of the missing information;
(b) Some of the missing information and written notice from the applicant that no other information will be provided; or
(c) Written notice from the applicant that none of the missing information will be provided (ORS 227.178).

4. Information submitted to the City after the date the application is deemed complete that results in a substantial change from the original application shall authorize review as a new application. The City Manager's designee shall determine whether a submission constitutes a substantial change from the original application.

5. Except for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits, notice of the application will be sent to interested agencies such as City departments, school district, utility companies, and applicable state agencies. Notice will not be provided for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits.

6. Except for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits, notice of the application will be sent to adjacent property owners within 250 feet of the subject property. For conditional use permit applications for wireless communication facilities, notice will be sent

to adjacent property owners within 350 feet of the subject property. Notice will not be provided for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits. Except for applications for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits, adjacent property owners will have 14 days to respond with written comments prior to issuance of a decision. There is no public comment period for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits.

7. If the staff finds that the facts of the particular case require interpretation of existing standards, then the application shall be forwarded to the Planning Commission for review. The procedures for conducting the public hearing shall comply with the standards in Section 11.030.

8. Within 30 days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance.

9. Except for Home Occupations, Sign Permits, Lot Line Adjustments, and Floodplain Permits, written notice of any Type I decision shall be mailed to the applicant and any adjacent property owner or interested party that requested a copy of the decision.

10. A Type I land use decision may be appealed to the Planning Commission by the applicant or person(s) with standing. The appeal shall be filed within 12 days from the date of the decision, pursuant to the provisions of Section 11.040.

11. The timing requirements established in this subsection are intended to allow a final action, including resolution of any appeals, within 120 days from the date the application is deemed complete. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.

a. The City staff shall notify the City Council of the time conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.

b. Public notice shall be mailed to affected parties as specified in this section.

c. The City Council shall hold a public hearing on the specified

date and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

F. Quasi-Judicial Actions. This subsection establishes the procedures to be followed in Type II and Type III land use actions.

1. The City Manager's designee shall examine each application to ascertain if the appropriate forms have been completed, the appropriate fees have been paid and if all required documents and information has been submitted. If the application is found to be complete, a public hearing shall be scheduled before the Planning Commission. A complete application for a land-use action must be submitted at least 30 days prior to the public hearing.

2. If the application for a land-use action is incomplete, the City Manager's designee shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete upon receipt of the missing information.

3. Within 180 days of receipt of staff's completeness determination, the applicant shall submit:

(a) All of the missing information;
(b) Some of the missing information and written notice from the applicant that no other information will be provided; or
(c) Written notice from the applicant that none of the missing information will be provided (ORS 227.178).

4. Should the applicant refuse or fail to submit the missing information, or request that the application be deemed complete as submitted within 180 days of staff's completeness determination, the application is void.

5. Information submitted to the City after the date the application is deemed complete that results in a substantial change from the original application shall authorize review as a new application. The City Manager or designee shall determine whether a submission constitutes a substantial change from the original application.

6. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

7. Application Review: Type II and Type III, quasi-judicial applications shall be heard by the Planning Commission at a public hearing conducted in accordance with the provisions for public hearings. Type III actions also require a second public hearing before the City Council.

8. Review Standards: If an application for a quasi-judicial land use action was complete when first submitted, or if the applicant submits the requested additional information within 180 days of the original submittal date, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted. Type III actions: the Planning Commission makes recommendations to City Council; the City Council makes the decision.

9. Written notice for all Type II and Type III decisions shall be sent to the applicant, adjacent property owners within 250 feet of the subject property, and all individuals who have in writing requested notice of the decision, shall be mailed written notice of the action. Notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.

10. A Type II land use decision of the Planning Commission may be appealed to the City Council, pursuant to the provisions of Section 11.045. A Type II or Type III decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA).

11. The timing requirements established in this subsection are intended to allow a final action, including resolution of any appeals, within 120 days from the date the application is deemed complete. If for any reason it appears that such final action may not be completed within the 120-day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.

a. The City staff shall notify the City Council of the time conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120-day period.

b. Public notice shall be mailed to affected parties as specified in this section.

c. The City Council shall hold a public hearing on the specified date and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

12. Conditions of Approval: Approvals of any quasi-judicial action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

a. Conditions shall be designed to protect public health, safety and general welfare. Conditions shall be related to the following:

i. Protection of the public from the potentially deleterious effects of the proposed use; or

ii. Fulfillment of the need for public service demands created by the proposed use.

b. Changes or alterations of conditions shall be processed consistent with the level of review provided for the original approval.

c. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information that demonstrates to the satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Planning Commission may require a performance guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.

G. Legislative Actions. This subsection establishes the procedures to be followed by the City in the consideration of Type IV land use actions.

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

2. Procedures: Legislative land use actions shall be heard by the Planning Commission at a public hearing conducted in accordance with the provisions of this section. Public notice shall be in accordance with the procedures set forth in this Section. The Planning Commission may continue any meeting in order to make a reasonable recommendation to the City Council. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments pursuant to the notification requirements and hearing procedures of this Section.

11.025 Notice of Public Hearings

A. Quasi-judicial hearings (Type II or Type III). Except as provided in subsection 11.025.A.(11), whenever a quasi-judicial public hearing (Type II or Type III) is required under this ordinance, the following procedures shall apply:

1. For Type I land use decisions, see Section 11.015.D.5.

2. For Type II land use decisions, notice of the hearings governed by this section shall be provided through each of these methods:

a. Provided to the applicant and to owners of record of property on the most recent property tax assessment roll within 250 feet of the property, which is the subject of the notice, a minimum of 20 days prior to the hearing date.

b. Posted on the proposed development site. The notice shall be posted by the project applicant at least 20 days before the public hearing, using a City-provided notice board, in a location considered suitable by the City of Independence. The location of the posted notice shall be visible from the highest classified adjacent roadway (i.e. arterial, collector, or local street).

c. Provided to any neighborhood or community organization recognized by the city and whose boundaries include the site.

d. Published on the City website a minimum of 10 days prior to the public hearing.

e. For Site Design Review applications, Subdivisions and Planned Unit Developments, published in a newspaper of general circulation a minimum of 10 days prior to the public hearing.

3. For Type III land use decisions, 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 within 250 feet of the property, which is the subject of the notice, a minimum of 10 days prior to the initial hearing date before the Planning Commission. Notice shall also be provided to any neighborhood or community organization recognized by the city and whose boundaries include the site. Notice shall be published in a newspaper of general circulation, a minimum of 10 days prior to the initial public hearing before the Planning Commission.

4. The City shall give notice to: (1) the Oregon Department of Transportation (ODOT) regarding any proposed land use action within 250 feet of a State transportation facility and (2) the public works department of any jurisdictions (for example, Polk County), when any action by the City could potentially affect another jurisdiction’s transportation facilities.

Information conveyed to reviewing agencies and jurisdictions shall include the project location, proposed land use action, and the location of project access points.

5. The notice provided by the city shall:

a. Explain the nature of the application and the proposed use or uses which could be authorized.

b. List the applicable criteria from the ordinance and the plan that apply to the application at issue.

c. Set forth the street address or other easily understood geographical reference to the subject property.

d. State the date, time and location of the hearing.

e. State that failure of an issue to be raised in a 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 hearings body based on that issue.

f. Be mailed at least twenty days before the evidentiary hearing, except if the application requires two or more hearings, written notice may be mailed ten (10) days before the first hearing.

g. Include the name of a local government representative to contact and the telephone number where additional information may be obtained.

h. 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 will be provided at reasonable cost.

i. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.

j. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

6. Applicant's documents and evidence. All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public at the time notice of the public hearing is mailed. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Delays caused by the allowance of such a continuance shall extend any

deadlines within which the city is required to complete final action on a land use application.

7. Staff Reports. Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing.

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

a. Lists the applicable substantive criteria;

b. States that 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 regulation which the person believes to apply to the decision.

c. States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.

d. States that failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

9. Close of Record. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Delays caused by keeping the record open under this subsection shall extend any deadlines within which the city is required to complete final action on a land use application.

10. New Evidence. If the record of a public hearing is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

11. An issue which may be the basis for an appeal to the hearing body shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the city. Such issues shall be raised with sufficient specificity so as to afford the hearings body and the parties an adequate opportunity to respond to each issue.

12. The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if, the city can demonstrate by

affidavit, that such notice was given. The notice provisions of this subsection shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

B. Legislative Hearings (Type IV). Notice of Public Hearing by the Planning Commission or City Council relating to any legislative action shall be published in a newspaper of general circulation a minimum of 10 days prior to the date of the hearing. Notice shall be provided to the Department of Land Conservation and Development in conformance with DLCD rules prior to the first evidentiary hearing by the City for any legislative action.

C. Appeals.

1. Type I actions are appealable to the Planning Commission. Notice is per Type II hearing procedure.

2. Planning Commission actions are appealable to the City Council. Notice is per Type II hearing procedure.

11.030 Conduct of Public Hearings

The Planning Commission and City Council shall hear and decide upon requests for land-use actions (Type II and Type III actions) in accordance with the following procedures:

A. Proponents and opponents of the request shall have an opportunity to present and rebut evidence at a hearing.

B. Applicants for and proponents and opponents of a land-use action may be represented at the hearing by legal counsel.

C. The Planning Commission and the City Council shall establish procedures for the conduct of hearings. Hearings shall be conducted in accordance with those procedures. A written description of such procedures shall be kept at the place of the hearing and shall be available to all persons at the hearing.

D. Members of the Planning Commission and City Council shall disclose any ex-parte contacts made with any person interested in the request being heard.

E. Any decision made by the Planning Commission or City Council on a request for a land-use action shall be supported by findings. Such findings shall indicate the facts and reasons used to make the decision.

F. The Planning Commission or City Council may grant, deny, continue, or table any request for a land-use action. Written notice of the Planning Commission's action shall be sent to the applicant and to the City Council within ten days of the Planning Commission's action.

G. Any public hearing may be continued prior to the closing of the hearing. Notice of the time and place at which the hearing is to be resumed shall be publicly announced during the initial hearing. Such announcement shall serve as sufficient notice of the continuance to all interested persons.

11.035 Resubmission of Requests

Any request for a land-use action which has been denied by the Planning Commission or City Council shall not be resubmitted for a period of one year following the date of the denial unless consent for resubmission is approved by the Planning Commission or the City Council.

11.040 Appeal of Type I Decision

A. An applicant, agent for or representative of the applicant, or any other aggrieved party may appeal any Type I decision made by the City Manager's designee. Such an appeal shall be directed to the Planning Commission within 12 days of the date of the designee's decision. If no appeal is filed within 12 days from the date of the designee's decision, that decision shall be final.

B. Any appeal shall be based upon the applicable criteria from the ordinance and must state with specificity which criteria are being appealed.

C. If an appeal is filed, the Planning Commission shall be given a report of the designee's action or ruling. The Planning Commission shall hold a public hearing of the appeal. Notice of such a public hearing shall be provided in accordance with the provision for public hearings set forth in this chapter. The public hearing of an appeal shall be conducted in accordance with the procedures for public hearings set forth in this ordinance.

D. All appeals shall be accompanied by a fee, established by resolution.

11.045 Appeal of Planning Commission Actions

Any land-use action granted under this ordinance may be rescinded by the Planning Commission or City Council if it is found that the application for such action contains false statements, or if subsequent division, development, or use of land occurs in a manner different from that which was approved.

A. An applicant, agent for or representative of the applicant, or any person who appeared in person, by representative or in writing, at the public hearing, may appeal any land-use action or ruling made by the Planning Commission. Such an appeal shall be directed to the City Council and shall be filed in writing with the City Manager or designee within 12 days of the date of the Planning Commission

decision. If no appeal is filed within 12 days from the Planning Commission's decision, that decision shall be final.

B. Any appeal shall be based upon the applicable criteria from the ordinance and the plan which were raised in the land use hearing and must state with specificity which criteria are being appealed.

C. If an appeal is filed, the City Council shall be given a report of the Planning Commission's action or ruling. The City Council shall hold a public hearing of the appeal. Notice of such a public hearing shall be provided in accordance with the provision for public hearings set forth in this chapter. The public hearing of an appeal shall be conducted in accordance with the procedures for public hearings set forth in this ordinance. The decision of the City Council regarding any appeal shall be final and shall become effective on the date of the City Council's action on the appeal.

D. The City Council may appoint a hearings officer to hear land-use actions on a case-by-case basis and may provide that the decision of a hearings officer of the Planning Commission is the final determination of the city.

E. All appeals shall be accompanied by a fee, established by resolution.

11.060 Supplemental Application for Remaining Permitted Uses Following Denial of an Initial Application

A. A person whose application for a permit is denied by the City may submit to the City a supplemental application for any or all other uses allowed under the City's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

B. The City or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 (“The 120-day Rule”) shall apply to a supplemental application submitted under this section.

C. A supplemental application submitted under this section shall include a request for any rezoning or variance that may be required to issue a permit under the City's comprehensive plan and land use regulations.

D. The City shall adopt specific findings describing the reasons for approving or denying:

1. A use for which approval is sought under this section; and

2. A rezoning or variance requested in the application.

11.070 Validity of Approval

A. Unless specified elsewhere within the Independence Development Code, approvals of land use applications are valid for the following time periods:

1. For Type I proposals, one year from the date of approval.

2. For Type II proposals, two years from the date of approval.

B. The following work is required to be complete within the approval timeframe:

1. For Planned Unit Developments, Subdivisions, Partitions, or Lot Line Adjustments, the applicant shall record a plan, plat, or survey (as appropriate for the land use application).

2. For all other land use approvals, the applicant shall begin actual construction or alteration under a required permit, or, in the case of a permit not involving construction or alteration, commence the operation of the authorized activity.

11.080 Extension of Land Use Approvals

A. An extension of a land use approval may be granted for one year, subject to the process below.

B. An applicant shall submit a request for an extension no later than 45 days prior to the expiration of the land use approval.

C. The extension request shall be considered by the same decision maker or decision-making body that heard the original decision. For Type II decisions, the consideration shall occur in an official public meeting, but no noticed public hearing shall be required.

D. The following criteria shall govern the review of the extension.

1. The extension request shall be filed no later than 45 days before the expiration of the previous approval.

2. The proposed extension shall be in substantial conformance with the originally approved plan.

3. The applicant shall submit a reason for the need to extend the approval and satisfactorily demonstrate that they plan to complete the work articulated in IDC 11.070(B) within the one-year extension period.

4. No substantive changes shall have occurred to the applicable Code provisions on which the approval was based. If there have been substantive changes to the applicable Code provisions and the subject plan does not comply with the changes, an extension shall not be granted, and a new application shall be required.

SUBCHAPTER 12: ZONE CHANGES AND PLAN AMENDMENTS

12.005 Initiation of a Zone Change or Plan Amendment

A zone change or plan amendment may be initiated in any one of the following ways:

A. The City Council may initiate such action by resolution. The resolution shall be forwarded to the City Manager, who shall set a date for a public hearing before the Planning Commission and give notice of such hearing as provided in this ordinance.

B. The Planning Commission may initiate such action by resolution. The resolution shall be forwarded to the City Manager, who shall set a date for a public hearing before the Planning Commission and give notice of such hearing as provided in this ordinance.

C. A property owner may initiate such action by petition for the owner's own property.

12.010 Zone Change and Plan Amendment by Petition

Any property owner may initiate a zone change or plan amendment for the property that he or she owns by submitting to the City Recorder a petition bearing the following:

A. Present zoning and plan designation of the property;

B. Proposed zoning and plan designation of the property;

C. Street address and township, range, section, and tax-lot number of the property.

D. Legal description of the property;

E. Names, addresses, and zip codes of the owners of record of the property to be reclassified;

F. Signatures of the owners of at least 50 percent of the property to be reclassified and the percentage of each signatory's ownership of the property;

G. A map showing all properties within the notification area and the names of hthe owners of each property;

H. A certified list showing the names and addresses of all owners of record of property within the notification area. Attached to the certified list shall be an affidavit of the person who prepared the certified list. The affidavit shall indicate that such person is qualified and competent to examine the public records of ownership of real property and that the list of names is accurate and complete.

The certificate of an abstract company or title company incorporated under the laws of Oregon shall be deemed as compliance with this requirement. The petition for reclassification must be filed within 60 days of the making of the certified list.

The petition shall be filed with the City Recorder, who shall set a date for public hearing before the Planning Commission and give notice of such hearing as provided in this ordinance.

12.015 Recommendation by the Planning Commission

The Planning Commission shall conduct a public hearing of any request for a zone change or plan amendment. Upon completion of the public hearing, the Commission shall forward to the City council its recommendation regarding the proposed reclassification. Such recommendation shall be in writing and shall contain findings regarding the facts and conclusions used to make the recommendation. Such recommendation shall be delivered to the City Council within 30 days of the Planning Commission's hearing.

12.020 Action by the City Council

Upon receipt of a recommendation from the Planning Commission for any zone change or plan amendment, the City Council shall hold a public hearing. The City Council shall base its decision upon the findings, conclusions and recommendations reached by the Planning Commission unless, by a preponderance of the evidence, it finds facts and reaches conclusions different from those reached by the Planning Commission. All zone changes or plan amendments shall be based on written findings. Any zone change or plan amendment shall be by ordinance. Any denial of a request for a zone change or plan amendment shall be by resolution.

12.025 Standards for Zone Changes

No zone change shall be approved by the Planning Commission or enacted by the City council unless it conforms to the Comprehensive Plan, including the Transportation System Plan, and at least one of the following standards is met:

A. The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;

B. Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate and the zone change would conform to the new conditions of the neighborhood;

C. There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.

12.030 Standards for Plan Amendment

No plan amendment shall be approved by the Planning Commission or enacted by the City Council unless at least one of the following standards is met:

A. The Comprehensive Plan designation for the land for which the plan amendment is initiated is erroneous and the plan amendment would correct the error;

B. Conditions in the neighborhood surrounding the land for which the plan amendment is initiated have changed to such a degree that the Comprehensive Plan designation is no longer appropriate and the plan amendment would conform to the new conditions in the neighborhood;

C. There is a public need for land use of the kind for which the plan amendment is initiated and that public need can best be met by the plan amendment.

12.035 Official Maps

Whenever any property is reclassified to a different zone or plan designation, the official zoning map or Comprehensive Plan map shall be revised accordingly. Such revision shall be accomplished by the City Manager or designee within 30 days of the effective date of the ordinance granting the zone change or plan amendment.

SUBCHAPTER 13: DEFINITIONS

See Subchapter 10.060 Interpretation regarding conflicts of definitions.

ACCESS

"Access" means the way or means by which pedestrians and vehicles enter and leave property.

ACCESSORY BUILDING

"Accessory Building" means a detached building or portion of a main building, the use of which is incidental, appropriate, and subordinate to that of the main building or to the use of the land.

ACCESSORY DWELLING UNIT (ADU)

“Accessory Dwelling Unit” means an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a primary dwelling.

ACCESSORY STRUCTURE

"Accessory Structure" means a detached structure or a structure attached to a building the use of which is incidental, appropriate, and subordinate to that of the main building or use of the land.

ACCESSORY USE

"Accessory Use" means a use incidental, appropriate, and subordinate to the main use of a building or land.

AGRICULTURE

“Agriculture means” activities that raise, produce or keep plants or animals. Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.

AIR CONTAMINANT

"Air Contaminant" means any dust, fume, mist, odor, smoke, vapor, pollen, soot, carbon, acid, or particulate matter which is emitted into the atmosphere.

AIRPORT

"Airport" means a land area, field, runway, or other facility designed, used, or intended to be used for the landing and take-off of aircraft. Such definition shall

also include structures and facilities for the storage, maintenance, or repair of aircraft, which use the landing field or runway.

ALLEY

"Alley" means an unnamed street which affords only a secondary means of access to property.

ALTER

"Alter" means any change, addition, or modification in construction of a structure or building.

ALTERATION, STRUCTURAL

"Alteration, Structural" means any alteration or repair which changes a supporting member of a building such as a bearing wall, column, beam, header, or girder.

AUTOMOBILE OR TRAILER SALES LOT

"Automobile or Trailer Sales Lot" means a lot or parcel used for the display, sale, or rent of new or used automobiles or trailers, and where no repair work is done except for the minor, incidental repair of automobiles or trailers to be displayed, sold, or rented on the premises.

AUTOMOBILES WRECKING YARD (JUNK YARD)

"Automobiles Wrecking Yard" means any property where more than two motor vehicles, not in running condition, or the parts of more than two vehicles are stored in the open; or any property used for the storage, sale, dismantling, or abandonment of wrecked automobiles, trailers, trucks, machinery, or parts thereof. “Automobiles Wrecking Yard” does not include legally established commercial vehicle service repair businesses.

AWNING

"Awning" means an overhead cover extending above the sidewalk (usually above windows and doors) as a shelter and/or sunshade.

BAND

“Band” means any horizontal flat member or molding or group of moldings projecting slightly from a wall plane and usually marking a division in the wall.

BASEMENT

"Basement" means that portion of a building between floor and ceiling which is partly below and partly above grade, and which has a vertical distance from grade to the floor below equal to or greater than the vertical distance from grade to ceiling. If such portion of a building is not a basement, then it shall be considered a story.

BAY

“Bay” means 1) Within a structure, a regularly repeated spatial element defined by beams or ribs and their supports. 2) A protruded structure with a bay window.

BED and BREAKFAST ESTABLISHMENT

“Bed and Breakfast Establishment” means a structure designed and occupied as a residence and in which sleeping rooms are provided on a daily or weekly basis for use by travelers or transients for a charge or fee paid for the rental or use of the facilities. An establishment with more than five sleeping rooms shall be considered a hotel.

BELT COURSE

“Belt Course” means a horizontal band or molding set in the face of a building as a design element; also referred to as a string course.

BLOCK

"Block" means an area of adjoining properties on one side of a street and lying between the nearest intersecting streets, railroad or right-of-way, boundaries of unsubdivided acreage, water-courses, city limits, or bodies of water.

BOARDING OF ANIMALS

"Boarding of Animals" means the care and keeping of four or more dogs, cats, or other non-resident pets over the age of four months for a period of time greater than 48 hours. The care and keeping of animals at a veterinary clinic while such animals are undergoing treatment or are convalescing shall not be considered boarding of animals.

BUILDING

"Building" means a structure built or used for the shelter or enclosure of persons, animals, or property of any kind.

BUILD-TO-LINE

“Build-to-Line” means a predetermined line (most often a front, side or rear property line) from which a building, landscaping or some other site requirement is measured.

BUILDING BASE

“Building Base” means the area extending from the top of the finished grade or sidewalk to the bottom of the windowsill.

BUILDING LINE

"Building Line" means a line that is parallel with and adjacent to the most forward portion of a building.

BUILDING OFFICIAL

"Building Official" means the duly appointed head of the building department or designee.

CABANA

"Cabana" means a stationary light-weight structure which may be prefabricated or demountable and which has two or more walls, used adjacent to and in conjunction with a manufactured home or trailer to provide additional living space and designed to be moved with the trailer or mobile home.

CAFE

Same as RESTAURANT.

CAMPER

"Camper" means a portable structure intended to shelter persons or property during recreation, work or travel and designed to be mounted or carried upon a car, truck, or other vehicle and having no motive power of its own.

CAMP GROUNDS

"Camp Grounds" means any property under one ownership where two or more camp sites are located so as to provide facilities for temporary sleeping and cooking in any manner other than in a permanent dwelling, a manufactured dwelling, or a recreational vehicle.

CANOPY

“Canopy” means a covered area, which extends from the wall of a building protecting an entrance or loading dock.

CAPACITY

"Capacity" means the maximum holding or service ability, as used for transportation, utilities, parks, and other public facilities.

CARPORT

"Carport" means a stationary structure used to shelter an automobile, and having two or more open sides.

CASEMENT

"Casement" means a window sash, which swings open along its entire length; usually on hinges fixed to the sides of the opening into which it is fitted.

CELLAR

See BASEMENT.

CEMETERY

"Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes. Such definition includes a columbarium, crematory, or mortuary, when operated in conjunction with and within the boundary of a cemetery.

CHAMFER

"Chamfer" means to cut off the edge or corner of a building at a 45-degree angle to open entry to both directions.

CHILD CARE FACILITY

"Child Care Facility" means any facility that provides care and supervision of minor children for periods of less than 24 hours. Such a facility includes a day nursery, nursery school group, group child care home, child care center, family child care home or similar unit operating under any name.

CHURCH

"Church" means a building together with its accessory buildings and uses, where persons regularly assemble for worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CITY

"City" shall mean that area under the jurisdiction of the governing body of the City of Independence, the City Council, or a representative of the City authorized to act in that capacity by the City Council.

CITY COUNCIL

"City Council" shall mean the governing body of the City of Independence, Oregon.

CITY MANAGER

“City Manager” means the Independence city manager or designee.

CLEAR VISION AREA

"Clear Vision Area" means a triangular area on a lot at the intersection of two streets; a street and an alley; a street and a driveway; or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines for 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.

CLERESTORY

“Clerestory” means the upper level of the primary ground-floor walls that extends beyond the single-story height; often penetrated by windows.

CLINIC

"Clinic" means an establishment where human patients, who are not lodged overnight, are admitted for treatment or examination by one or more physicians, dentists, chiropractors, or other practitioners of medicine. (For animal care, refer to “Veterinary Hospital”.)

CLUB

"Club" means buildings and facilities, owned or operated for a social, educational or recreational purpose, to which membership is required for participation, and not operated primarily for profit nor to render a service which is customarily carried on as a business.

COLUMN

“Column” means in structures, a relatively long, slender structural compression member such as a post, pillar, or strut; usually vertical, supporting a load, which acts in (or near) the direction of its longitudinal axis.

COMMERCIAL PARKING

"Commercial parking" means a parking structure, surface, or below grade parking lot for which a charge or fee is assessed for parking that is not accessory to a primary use, except as identified in an approved parking plan.

COMMERCIAL OUTDOOR RECREATION

"Commercial outdoor recreation" means large uses that provide continuous recreation or entertainment-oriented activities. Examples include amusement parks, theme parks, golf driving ranges, miniature golf facilities, and marinas.

COMMISSION

"Commission" means the City Planning Commission.

COMMON AREA

"Common Area" means private land commonly owned to include open space, landscaped or recreation facilities.

COMMON COURTYARD

"Common courtyard" means a common area for use by residents of a cottage cluster. A common courtyard may function as a community yard. Hard and soft landscape features may be included in a common courtyard, such as pedestrian walkways, lawn, groundcover, trees, shrubs, patios, benches, or gazebos.

COMMON WALL CONSTRUCTION

"Common Wall Construction" means a single-family townhome having one or more walls attached to one or more single-family townhomes.

COMMUNITY BUILDING

"Community Building" means a publicly owned and operated facility used for meetings, recreation, or education.

COMMUNITY SERVICES

"Community Services" means uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. The use may provide mass shelter or short term housing. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature. Examples include libraries, museums, senior centers, community centers, publicly

owned swimming pools, youth club facilities, hospices, ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency.

COMPREHENSIVE PLAN

"Comprehensive Plan" means the Comprehensive Plan for the City of Independence as adopted by the City Council, and including the Comprehensive Plan map and policies.

CONDOMINIUM

"Condominium" means the land, whether leasehold or in fee simple and whether contiguous or noncontiguous, all buildings, improvements, and structures thereon, and all easements, rights, and appurtenances belonging thereto, as provided by ORS 100, Condominiums.

CONVALESCENT HOME

Same as NURSING HOME.

CORNICE

“Cornice” means a decorative projection or crown along the top of a wall or roof.

COTTAGE

“Cottage” means an individual, detached dwelling unit that is part of a cottage cluster.

COTTAGE CLUSTER

“Cottage cluster” means a grouping of no fewer than five detached or attached dwelling units per parcel, located on a single lot or parcel that includes a common courtyard. Cottage clusters that also meet the definition of “manufactured dwelling park” or “mobile home park” may be subject to additional requirements, pursuant to ORS 446.003 through 446.140.

COTTAGE CLUSTER PROJECT

“Cottage cluster project” means a development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

COUNCIL

"Council" means the common council of the City.

COURTYARD

"Courtyard" means a space, open and unobstructed to the sky, bounded on three or more sides by walls of a building.

CUPOLA

“Cupola” means a dome-shaped ornamental structure on the top of a larger roof or dome. In some cases, the entire roof of a tower or spire can be a cupola. More frequently, however, the cupola is a smaller structure that sits on top of the main roof and at the corner of the building.

CURB LINE

"Curb Line" means the line indicating the edge of the vehicular roadway within the overall right-of-way on improved streets. The curb line is the face of the curb at the storm water gutter line.

DAY CARE CENTER

A “Day Care Center” is the supervision of and care for children or physically or mentally disabled adults that is provided during the day by a person or organization.

DECK

"Deck" means a flat-floored, roofless area adjoining a dwelling or other building and adapted especially to outdoor dining and living.

DEDICATION

“Dedication” means the designation of land by its owner for any public use as shown on a partition or subdivision plat or deed. The term may also be used for dedications to a private homeowners association.

DENSITY

"Density" means the number of dwelling units per acre of land within a subdivision, manufactured dwelling park, planned unit development, lot or parcel. Accessory dwelling units, as allowed by this ordinance, are not included in density calculations. In zones that allow duplexes as an outright permitted use, maximum density standards of that zone do not apply to the development of duplexes. The number of acres shall be determined by the measurement of the gross area of the property to include the area of any future streets, common areas, or other rights-of-way to be dedicated to the public.

DETENTION FACILITIES

"Detention Facilities" means facilities for people who are under judicial detainment and are under supervision.

DEVELOPMENT

"Development" means all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes. For floodplain management purposes, the definition of "development" found in Section 51.010 is used.

DORMER

"Dormer" means a structure projecting from a sloping roof usually housing a window or ventilating louver.

DORMITORY

"Dormitory" means a building other than a hotel, single room occupancy use, or fraternity, sorority, student house that is used primarily for sleeping purposes.

DRIVE-THROUGH FACILITY

"Drive-Through Facility" means a facility or structure that is designed to allow drivers to remain in their vehicles during an activity on the site. Examples are drive-up windows, menu boards, order boards or boxes. Off-street parking spaces used for customer pick-up or loading of goods or products purchased on-site, on the phone, or on-line from the establishment are not a drive-through facility. Facilities designed for the picking-up or loading of goods or products purchased from the establishment that include a stacking lane and a service area are a drive-through facility.

DWELLING UNIT

"Dwelling Unit" means a building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, as applicable, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar. This definition shall not include a hotel, motel, single room occupancy unit, campground, or recreational vehicle.

DWELLING, DUPLEX

"Dwelling, Duplex" means two attached or detached dwellings in any configuration on a lot or parcel, other than a lot or parcel created by a middle housing land division.

DWELLING, MULTIPLE-UNIT

"Dwelling, Multiple-Unit" means five or more dwelling units on one lot or parcel, excluding cottage cluster developments.

DWELLING, QUADPLEX

“Quadplex” means 4 attached or detached dwelling units in any configuration on a lot or parcel.

DWELLING, SINGLE-UNIT

"Dwelling, Single-Unit" means a detached structure on a lot or parcel that is comprised of a single dwelling unit. Detached single-unit dwellings may be constructed off site, e.g., manufactured homes or prefabricated dwellings.

DWELLING, TOWNHOUSE

"Dwelling, Townhouse” means a single-unit structure, which is attached on one or more sides to another single-unit structure, and so designed that each individual dwelling unit is located upon a separate lot or parcel.

DWELLING, TRIPLEX

“Dwelling, Triplex” means 3 attached or detached dwelling units in any configuration on a lot or parcel.

EASEMENT

"Easement" means a non-possessory interest or right of usage of real property granted by an owner to the public or to specific person(s), firms, or corporations.

EAVES

“Eaves” mean the lower edge of a sloping roof; that part of a roof of a building which projects beyond the wall, limiting rainwater from hitting the façade.

EDUCATIONAL INSTITUTION

"Educational Institution" means a college or university supported by public funds, tuition, contributions, or endowments and giving general academic instruction, excluding elementary and high schools and trade or commercial schools.

ELEMENTARY SCHOOL

"Elementary School" means a public elementary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary school teaching children as described in ORS 339.030(1)(a).

ENGAGED COLUMN

"Engaged Column" means a column embedded in a wall and partly projecting from the surface of the wall.

ENTERTAINMENT/MAJOR EVENT

"Entertainment/Major Event" means uses characterized by activities and structures that draw large numbers of people to specific events or shows. Examples include sports arenas, racetracks (auto, horse, dog, etc.), auditoriums, exhibition and meeting areas, outdoor amphitheaters, and fairgrounds.

FACADE

"Façade" means the exterior face of a building, which is the architectural front, sometimes distinguished from the other faces by elaboration of architectural or ornamental details.

FAMILY

"Family" means an individual; or two or more persons related by blood, marriage, or adoption; or a group of not more than five persons (excluding servants) not related by blood or marriage and living together in a dwelling.

FENCE

"Fence" means any obstruction constructed of any materials, including but not limited to wire, wood, cement, brick and evergreen or shrubbery planting arranged in such a way as to partially or wholly obstruct vision.

FENESTRATION

"Fenestration" means the arrangement of windows in a building to provide interior light; also used as decorative elements in a façade.

FLAG LOT

“Flag lot” means a lot that has frontage on and primary access to a street by means of a “flag stem”.

FLAG STEM

“Flag stem” means that portion of a flag lot that is a narrow strip of land providing primary frontage and access to the main body of the lot.

FLOOR AREA

"Floor Area" means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

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

FOOT CANDLES

“Foot candles” means a unit of measurement to calculate lighting levels. A foot candle is defined as the amount of illumination the inside surface an imaginary 1-foot radius sphere would be receiving if there were a uniform point source of one candela in the exact center of the sphere.

FRATERNITY, SORORITY, STUDENT HOUSE

"Fraternity, Sorority, Student House" means a residential building in which living accommodations are furnished to the students of an educational institution.

FRIEZE

“Frieze” means a decorative horizontal band along the upper part of a wall in a room; often used for signage in modern buildings but derived from classical architectural principles.

FRONTAGE

"Frontage" means the distance along which a lot or parcel abuts a street as defined in this ordinance.

GABLE ROOF

“Gable roof” means a roof having a gable at one or both ends.

GAMBLING ESTABLISHMENT

An establishment whose primary purpose is to host gambling activities. This includes off track betting parlors, but does not apply to video poker, lottery and other gambling activities which are secondary to a bar, restaurant or store’s clientele.

GARAGE, PRIVATE

"Garage, Private" means an accessory building or portion of a main building for the parking or storage of automobiles for the residents, tenants, employees, or owners of the building. A private garage for a dwelling shall not be designed to accommodate more than 3 automobiles and shall not exceed 750 square feet in floor area.

GARAGE, PUBLIC

"Garage, Public" means a building other than a private garage where motor vehicles are parked or stored for compensation, hire or sale.

GARAGE, REPAIR

"Garage, Repair" means a building in which automobiles or other motor vehicles are repaired or modified for compensation.

GOOSE NECK FIXTURE

“Goose neck fixture” means a type of light fixture attached to a building face or wall that extends out from the building or wall like a neck.

GRADE, (GROUND LEVEL)

"Grade, (Ground Level)" means the lowest elevation of the finished surface of the ground between the exterior wall of building and a point five feet distant from said wall; or the lowest elevation of the finished surface of the ground between the exterior wall of a building and the property line if such line is less than five feet distant from the wall. In the case that walls are parallel to and within five feet of a public sidewalk, alley, or other public way, the grade shall be the elevation of the sidewalk, alley, or public way.

GRASSCRETE

“Grasscrete” means a structural vehicular paver that consists of pores or holes that

are typically infilled with grass or some other type of ground cover that helps to reduce storm water runoff by treating the water on site.

GUEST HOUSE

"Guest House" means an accessory building without kitchen or cooking facilities and occupied solely by nonpaying guests or by persons employed on the premises.

HANGAR, PRIVATE

"Hangar, Private" means an accessory building or portion of a main building primarily for the parking or storage of aircraft for the residents, tenants, or owners of the building.

HANGAR, PUBLIC

"Hangar, Public" means a building other than a private hangar where aircraft are parked or stored for compensation, hire or sale.

HEAVY INDUSTRIAL

“Heavy industrial” means industrial uses that are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Few customers, especially the general public, come to the site. Examples include machine shops, auto and truck salvage and wrecking, printing, dying establishments, and fertilizer production.

HEIGHT OF BUILDING

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

HELIPORT

"Heliport" means an area used or intended for landing or take-off of helicopters or other vertical take-off and landing aircraft capable of hovering, and which includes all of the area or buildings which are accessory to these functions.

HIP ROOF

“Hip roof” means a roof, which slopes upward from all four sides of a building requiring a hip rafter at each corner.

HOME OCCUPATION

"Home Occupation" means an occupation carried on solely by the resident or residents of a dwelling and which is incidental, secondary, and subordinate to the residential use, and which is conducted in accordance with the provisions and requirements of this ordinance. All home occupations shall comply with the requirements of Subchapter 72. A Marijuana Facility is not a home occupation.

HOSPITAL

"Hospital" means an institution devoted primarily to the rendering of healing, curing, and nursing care; and which maintains and operates facilities for the diagnosis, treatment, or care of two or more non-related individuals suffering from illness, injury, or deformity; or where obstetrical or other healing or nursing care is rendered over a period exceeding 24 hours.

HOTEL OR LODGING HOUSE

"Hotel or Lodging House" means a building or portion of a building, which is not a residence, containing rooms customarily occupied by travelers as temporary quarters and for which compensation is paid.

JUNK YARD

Same As AUTOMOBILE WRECKING YARD.

KENNEL

"Kennel" is as defined in Chapter 4-52 of the Independence Municipal Code.

LANDSCAPE

"Landscape" means to change the natural features of a site so as to make it more attractive, by adding trees, bushes, ground cover, and other plants or built features such as paths, fountains, and pools.

LAND-USE ACTION

"Land-Use Action" means a quasi-judicial decision rendered by the Planning Commission or the City Council on a request for a variance, conditional use, zone change, plan amendment, subdivision, manufactured dwelling park, planned unit development or partition.

LIGHT INDUSTRIAL USES

“Light industrial uses” means industrial uses that are usually less capital intensive and produce products for end users as opposed to for other industries. Light

industrial uses also have less environmental impacts. Examples include the manufacture of clothes, shoes, furniture, consumer electronics, household items, as well as research and development activities and high-tech activities

LINE, FRONT BUILDING

"Line, Front Building" means a horizontal line parallel to the front lot line and passing through that part of the main building's foundation which is closest to the front lot line. In the case of a lot which has no improvements upon it, the front building line shall be considered to be a line located halfway between the front and rear lot lines and parallel to the front lot line.

LINTEL

“Lintel” means the horizontal member above a door or window which supports the wall above the façade opening.

LIQUID WASTE

"Liquid Waste" means waste oils, septic tank pumpings, industrial wastes, or other similar liquids.

LIVE/WORK UNIT

“Live/work unit” means a building that provides the resident an opportunity to live and work at the same location. Generally, the work space has some street exposure and a separate entrance from the residence. Live/work units may be built as attached townhomes.

LOADING SPACE

"Loading Space" means an off-street space or berth for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Such space shall be on the same lot as the building or group of buildings that it serves and shall abut upon a street, alley, or other appropriate means of access.

LOT

"Lot" means a unit of land created by a subdivision of land.

LOT AREA

"Lot Area" means the total area measured on a horizontal plane within the lines of a lot.

LOT, CORNER

"Lot, Corner" means a lot abutting on two or more streets, other than an alley, at their intersection.

LOT COVERAGE

“Lot coverage” means the percentage of the site that is occupied by a structure.

LOT, CURVILINEAR

"Lot, Curvilinear" means a lot having a curved frontage.

LOT DEPTH

"Lot Depth" means the horizontal distance between the front lot line and the rear lot line measured in the mean direction of the side lot lines.

LOT, DOUBLE FRONTAGE

"Lot, Double Frontage" means a lot which has frontage on two streets, but which is not a corner lot.

LOT, INTERIOR

"Lot, Interior" means any lot other than a corner lot.

LOT LINE

"Lot Line" means the lines bounding a lot as defined herein.

LOT LINE, FRONT

"Lot Line, Front" means in the case of an interior lot, a line separating the lot from the street; in the case of a corner lot or double frontage lot, the line separating the lot from the street on which the improvements or contemplated improvement will face, or if that is not applicable, the line adjoining the street from which the property will take its access, or, if neither of the preceding is applicable, the line having the shorter street frontage.

LOT LINE, REAR

"Lot Line, Rear" means a lot line which is opposite and most distant from the front lot line. In the case of a triangular lot, the rear lot line for building purposes shall be assumed to be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

LOT LINE, SIDE

"Lot Line, Side" means any lot line which is not a front or rear lot line.

LOT, THROUGH

Same as DOUBLE-FRONTAGE LOT. A lot that has frontage on a public or private street on 2 or more sides and that is not a corner lot.

LOT OF RECORD

"Lot of Record" means a lot which is part of an approved, recorded subdivision, or a lot or parcel described by metes and bounds and which has been recorded in the office of the County Clerk.

LOT WIDTH

"Lot Width" means the distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and real lot lines.

LUNETTE-HALF WINDOW

“Lunette-Half Window” means a half-moon shaped space, either masonry or void, formed when a horizontal cornice transects a round-headed arch at the level of the imposts where the arch springs.

MAIN BUILDING

"Main Building" means a structure housing the primary land use which occurs on a lot or parcel. There may be several main buildings on a single lot or parcel.

MANUFACTURED DWELLING

"Manufactured Dwelling" means:

a. Manufactured home, as defined by this ordinance.

b. Mobile home, as defined by this ordinance.

c. Residential trailer, as defined by this ordinance.

“Manufactured Dwelling” does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to Oregon Revised Statutes 455.100 to 455.449 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer.

MANUFACTURED DWELLING PARK

"Manufactured Dwelling Park" means a privately owned property where four (4) or more manufactured dwellings, used as residences, are within 500 feet of one another on the same lot, tract, or parcel of land under the same ownership the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the City as a subdivision.

MANUFACTURED HOME

"Manufactured Home" means a structure constructed for movement on public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

MANUFACTURING AND PRODUCTION

“Manufacturing and Production” means the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Good are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. The manufacturing or production of art and unique artisanal products sold from a retail store in the same building is not included in this definition and is therefore allowed. Manufacturing of art and unique artisanal products may require compliance with Subchapter 80: Site Design Review.

MARGINAL ACCESS STREET

“Marginal Access Street” means a minor street parallel and adjacent to major streets and which provides access to abutting properties with protection from through traffic.

MARIJUANA

"Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. "Marijuana" does not include industrial hemp as defined in ORS 571.300.

MARIJUANA FACILITY

"Marijuana Facility" means any of the following: a medical marijuana processing site, a medical marijuana dispensary, a recreational marijuana producer, a recreational marijuana processor, a recreational marijuana wholesaler, a recreational marijuana retailer, a marijuana research facility or a marijuana testing laboratory.

MARIJUANA RESEARCH FACILITY

"Marijuana Research Facility" means cannabis researcher certified by the Oregon Liquor Control Commission pursuant to ORS 475B.235.

MARIJUANA TESTING LABORATORY

"Marijuana Testing Laboratory" means a laboratory that conducts testing of marijuana items and is licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.560 and accredited by the Oregon Health Authority pursuant to ORS 475B.565.

MEDALLION

"Medallion" means a decorative element set into the upper portion of a building façade periodically, typically medallions are incorporated into columns or pilaster.

MEDICAL MARIJUANA DISPENSARY

"Medical marijuana dispensary" means a medical marijuana dispensary registered with the Oregon Health Authority pursuant to ORS 475B.450.

MEDICAL MARIJUANA GROW SITE

"Medical marijuana grow site" means a site registered with the Oregon Health Authority pursuant to ORS 475B.420 to produce marijuana for an individual who has been issued a medical marijuana registry identification card by the Oregon Health Authority.

MEDICAL MARIJUANA PROCESSING SITE

"Medical Marijuana Processing Site" means a medical marijuana processing site registered with the Oregon Health Authority pursuant to ORS 475B.435.

MINING

"Mining" means the mining or extraction of mineral or aggregate resources from the ground for off-site use.

MOBILE HOME

"Mobile Home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

MODULAR PAVERS

"Modular Pavers" means a pre-cast piece of usually either concrete or brick that is commonly used in exterior paving applications. Pavers can be made permeable so that moisture filters through the joints allowing for ground water recharge.

MOTEL (Auto Court, Tourist Court)

"Motel" means a series of attached, semi-detached, or detached units customarily occupied by travelers as temporary quarters and for which compensation is paid. Such units shall have an entrance directly from the outside into the building and shall not be used as residences.

MULLION

"Mullion" means a vertical post or upright element dividing a window or other opening into two or more sections.

NONCONFORMING LOT OF RECORD

"Nonconforming Lot of Record" means a lot which was lawfully created in compliance with all applicable ordinances and laws, but which because of the application of a subsequent zoning ordinance or amendments, no longer conforms to the requirements for the zone in which it is located.

NONCONFORMING STRUCTURE

"Nonconforming Structure" means the use of a structure or land which use was lawfully established in compliance with all applicable ordinances and laws, but

which, because of the application of a subsequent zoning ordinance or amendments, (1) no longer conforms to the setback, height, maximum lot coverage, or other building development requirements of this Chapter, or (2) is clearly designed and intended for uses other than those permitted in the zone in which it is located.

NOTIFICATION AREA

"Notification Area" means, as applied to a request for a land use action, the notification area shall be deemed to include the area bounded by lines 250 feet (350' for wireless communications facilities) from and parallel to the boundaries of the property that is the subject of the request. The notification area also include the property that is the subject of the request. In those cases where the subject property is adjoined by property under the same ownership, the notification area shall be measured from the outermost property line of all the contiguous properties under that ownership.

NURSERY

A facility where young plants are grown for transplanting, for use as stocks for budding and grafting, or for sale.

NURSING HOME (Convalescent Home, Rest Home)

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

OWNER

"Owner" means the owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a property according to the term of a recorded contract.

PARAPET

"Parapet" means a low, solid, protective screening or decorative wall that is an extension of exterior building walls beyond the roof or deck level.

PARCEL

"Parcel" means a single unit of land that is created by a partitioning of land.

PARKING AREA, PRIVATE

"Parking Area, Private" means an open area other than a street or alley used for the parking of automobiles and available for use by the public or by persons patronizing a particular building or establishment.

PARKING SPACE, AUTOMOBILE

"PARKING Space, Automobile" means a designated area for the parking of one automobile.

PATIO

"Patio" means an unenclosed, covered recreation area adjoining a dwelling or other building and adapted especially to outdoor dining and living.

PERSON

"Person" means a person or their heirs, executors, administrators, or assigns; or a firm, partnership, or corporation, or its successors or assigns; or the agent of any of the aforesaid; or any political subdivision, agency, board, or bureau of government.

PERVIOUS ASPHALT

“Pervious Asphalt” means asphalt that consists of pores or openings that allows for liquid or gas to pass through.

PILASTER

“Pilaster” means a rectangular or round column or shallow pier attached to a wall constructed to coordinate with the style of the building.

PLAN AMENDMENT

"Plan Amendment" means a change of the plan designation of a property as shown on the Comprehensive Plan map.

PLAN DESIGNATION

"Plan Designation" means the designation of a property as shown on the comprehensive plan map.

PLANNING COMMISSION

"Planning Commission" means the Planning Commission of the City of Independence, Oregon.

PORTICO

“Portico” means a porch or covered walk consisting of a roof supported by columns.

PROFESSIONAL OFFICE

"Professional Office" means an office occupied by services including but not limited to, an accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts.

PROJECTED WINDOW SILL

“Projected Window Sill” means an articulated, horizontal member at the base of the window that supports the window, wicks water from the facade and provides a slight shadow line that accentuates the depth of the opening.

PROPERTY LINE

Same as LOT LINE.

PUBLIC ATHLETIC FIELD

“Public Athletic Field” means an athletic field that is owned or operated by a government entity or nonprofit organization and that is open to the general public.

PUBLIC LIBRARY

“Public Library” means a library open to the general public and owned or operated by a government entity or nonprofit organization.

PUBLIC PARK

“Public Park” means a park that is owned or operated by a government entity or nonprofit organization and that is open to the general public.

PUBLIC PLAYGROUND

“Public Playground” means a playground that is owned or operated by a government entity or nonprofit organization and that is open to the general public.

PUBLIC RECREATIONAL FACILITY

"Public Recreational Facility" means a recreational facility that is owned or operated by a government entity or nonprofit organization and that is open to the general public.

QUADPLEX

"Quadplex" means four attached dwelling units on a Lot or Parcel.

RAILROAD YARDS

"Railroad Yards" means areas that contain multiple railroad tracks used for rail car switching, assembling of trains and shipment of goods to other transportation modes.

RAMADA

"Ramada" means a stationary structure which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from the snow, sun, or rain.

RECREATIONAL MARIJUANA PROCESSOR

"Recreational Marijuana Processor" means a recreational marijuana processor licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.090.

RECREATIONAL MARIJUANA PRODUCER

"Recreational Marijuana Producer" means a recreational marijuana producer licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.070.

RECREATIONAL MARIJUANA RETAILER

"Recreational Marijuana Retailer" means a recreational marijuana retailer licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.110.

RECREATIONAL MARIJUANA WHOLESALER

"Recreational Marijuana Wholesaler" means a recreational marijuana wholesaler licensed by the Oregon Liquor Control Commission pursuant to ORS 475B.100.

RECREATIONAL VEHICLE

"Recreational Vehicle" means a vehicle, with or without motive power, which is designed for human occupancy and designed to be used temporarily for recreational, seasonal, or emergency purposes. Such definition shall include pickup campers, motor homes, camper trailers, and similar vehicles regardless of whether they are self-propelled, carried or towed.

RECREATIONAL VEHICLE PARK

"Recreational Vehicle Park" means a plot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreational or vacation purposes.

REFUSE

"Refuse" means any putrescible and non-putrescible solid wastes including but not limited to garbage, rubbish, ashes, dead animals, abandoned automobiles, solid market wastes, street cleanings, and industrial waste (including waste disposal from industrial salvage).

REPAIR, BUILDING

"Repair" means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance or improvement. The word "repair" or "repairs" shall not include any structural alteration.

RESIDENCE

"Residence" means any dwelling unit, apartment, building, mobile home, or other structure in which residential activities are conducted and which is occupied by a person, family, or group of persons for a period exceeding thirty days within any 12-month period.

RESIDENTIAL

"Residential" means that which pertains to the activities normally conducted within a residence (i.e., living, sleeping, cooking, and eating).

RESIDENTIAL FACILITY

“Residential Facility” means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, licensed or registered under ORS 443.400 to 443.460 or licensed under ORS 418.205 to 418.327 by the Department of Human Services that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet 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

“Residential Home” means a residential treatment or training or an adult foster home licensed by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet 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 home.

RESIDENTIAL TRAILER

"Residential Trailer" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

REST HOME

Same as NURSING HOME.

RESTAURANT (Cafe)

"Restaurant" means an establishment where prepared food is served to the public either for consumption within the building or as a take-out service.

RIGHT-OF-WAY (R.O.W.), PUBLIC

"Right-of-Way" means a defined area of land dedicated to and wholly owned by the public so that it may be used or passed across by the public.

ROOF PITCH

“Roof Pitch” means the angle of the roof described as a horizontal to vertical proportion.

SCHOOL, PRIVATE (Elementary, Junior High/Middle, or High)

"School, Private" means an institution, public, private or parochial, offering instruction in several branches of learning in accordance with the rules and regulations of the State Department of Education.

SCHOOL, TRADE OR COMMERCIAL

"School, Trade or Commercial" means a school in which instruction is given to pupils for a fee in money, and which is not a public school, and which specializes in the teaching of a particular skill, trade or profession.

SECONDARY SCHOOL

“Secondary School” means a public secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial secondary school teaching children as described in ORS 339.030(1)(a).

SELF-SERVICE STORAGE STATION

“Self-Service Storage” means a designated area that provides separate storage for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.

SETBACK

“Setback” means the distance between a building (or other feature of development) and a property line. Minimum and maximum setbacks may be required for front, rear, and side yards.

SHARED PARKING

“Shared Parking” means 1) An arrangement between adjacent property owners or uses that allow for the sharing of a central parking facility 2) A legal arrangement between separate uses, typically one that is a morning/afternoon oriented use and one that is an evening use, that allows for the shared use of parking facilities.

SHARED TRASH STORAGE FACILITY

“Shared trash storage facility” means an enclosure used to store trash and/or recycling materials for more than one dwelling unit.

SIGN

"Sign" means an identification, description, illustration or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business.

SIGN, ADVERTISING

"Sign, Advertising" means a sign which directs attention to a business, product, activity, or service which is not necessarily conducted, sold or offered upon the premises where such sign is located.

SIGN, BLADE

“Sign, Blade” means a pedestrian-oriented sign that projects perpendicular from and is supported by or attached to a wall that hangs out over the public right-of-way or any private area subject to pedestrian travel.

SIGN, BUSINESS

"Sign, Business" means a sign which directs attention to a business, professional, service, product, activity, or entertainment sold or offered upon the premises where such sign is located.

SIGN, PORTABLE

"Sign, Portable" means any sign that is not permanently affixed to a building, structure, or the ground; a sign designed to be moved from place to place. These signs primarily included but are not limited to: A-frame or sandwich board signs, signs attached to wood or metal frames which are designed to be self-supporting and movable, and trailer reader boards. Portable sign does not mean a sign affixed to and hanging from a marquee or awning provided the bottom of such sign is not less than eight feet above the sidewalk grade.

SINGLE ROOM OCCUPANCY USE

“Single room occupancy use” means a residential development with no fewer than four attached or detached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy. The number of units allowed on a particular site is articulated in ORS 197A.430.

SMALL SOLAR ENERGY SYSTEM

“Small solar energy system” means a system composed of a solar energy collector, an energy storage facility, and components for the distribution of transformed energy that may be attached to a residence or other structure. A small solar energy system may be a photovoltaic system to convert the sun’s energy to electricity or it may be a solar thermal system used to heat water.

SMALL WIND ENERGY SYSTEM

“Small wind energy system” means a wind energy conversion system consisting of a wind turbine, a support structure, and associated control of conversion electronics and that has a rated capacity of not more than 10kW and that is intended to reduce on-site consumption of utility power.

STACKING AREA/LANE

“Stacking Area/Lane” means a designated lane where vehicles queue before proceeding through a drive-through facility.

STORY

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the next floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor and level directly above a basement or unused underfloor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement or unused underfloor space shall be considered a story.

STREET

"Street" means a public way or thoroughfare which has been dedicated or deeded to the public to provide access.

STRING COURSE

“String Course” means a horizontal band or molding set in the face of a building as a design element (also called a belt course).

STRUCTURE

"Structure" means 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, regardless of whether it is wholly or partly above or below grade.

STRUCTURAL ALTERATION

"Structural Alteration" means any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

SUBJECT PROPERTY

"Subject Property" means the lot or parcel that is the subject of a request for a land use action as defined in this ordinance.

TOURIST COURT

Same as MOTEL.

TRAILER (TRAVEL OR VACATION)

Same as RECREATIONAL VEHICLE.

TRANSOM

“Transom” means a horizontal glass plane, typically encased in a wood or metal frame, that separates the storefront from the middle of the façade, or which is located between a door frame and ceiling.

TRIPLEX

“Triplex” means three attached dwelling units on a Lot or Parcel.

TURRET

“Turret” means a very small and slender tower attached to a larger building.

USE

"Use" means the purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is used.

VEHICLE SERVICING/REPAIR

Vehicle Servicing/Repair – Businesses servicing motor vehicles. Generally, the customer does not wait at the site while the service or repair is being performed. Examples include, but are not limited to vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.

VETERINARY HOSPITAL OR CLINIC

"Veterinary Hospital or Clinic" means a building or premises for the medical or surgical treatment of animals or pets.

VISION CLEARANCE

"Vision Clearance" means a triangular area at the street intersection corner of a corner lot, or at the corner at any alley and street intersection. The triangular area is defined by a diagonal line connecting points on the right-of-way lines a prescribed distance from corner formed by the intersecting streets.

WALL SCONCE

"Wall Sconce" means a wooden or metal bracket affixed to a wall and designed to hold candles, lamps, or other types of illumination.

WAREHOUSE AND FREIGHT

"Warehouse and Freight" means the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.

WASTE-RELATED

"Waste-Related" means a land use that receives solid or liquid wastes from another source for disposal on the site or for transfer to another location.

WETLANDS

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term is defined more specifically by the Federal Clean Water Act (Section 404) and Oregon Administrative Rules (OAR 141-85-010). The protection, development, and regulation authority over designated wetlands are subject to local, state, and federal regulations.

WHOLESALE RETAIL

"Wholesale Retail" means the sale, lease, or rental of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates.

WITHIN 1,000 FEET

"Within 1,000 Feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction between any point on the boundary line of the real property on which the Marijuana Facility is located and the real property on which an Elementary or Secondary School is located.

WITHIN 250 FEET

"Within 250 Feet" means a straight line measurement in a radius extending for 250 feet or less in every direction between any point on the boundary line of the real property on which the Marijuana Facility is located and the real property which is residentially zoned, or on which a Public Library, Public Park, Public Playground, Public Recreational Facility or Public Athletic Field is located, as applicable.

WOOD FRAME CONSTRUCTION

"Wood Frame Construction" means the prevalent method for constructing homes using a structural system of wood. Structures can be built above a concrete pad or plinth.

YARD

"Yard" means the area defined by setbacks (i.e. between the setback line and respective property line).

YARD, FRONT

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

YARD, LANDSCAPED

"Yard, Landscaped" means an open area devoted primarily to the planting and maintaining of trees, grass, shrubs and plants together with sufficient permanent irrigation equipment to maintain properly all vegetation. As complementary features, fountains, pools, screens, decorative lighting, sculpture and outdoor furnishings may be placed within said area.

YARD, REAR

"Yard, Rear" means a yard extending across the full width of the lot between the nearest main building and the rear lot line. The required rear yard depth shall be measured horizontally from the nearest point of the rear lot line, or, if the rear lot line adjoins an alley, then from the center line of the alley, toward the nearest part of the foundation of the building.

YARD, SIDE

"Yard, Side" means a yard between the main building and the side lot line extending from the front yard or front lot line to the rear yard; the required side yard

depth shall be measured from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

ZONE CHANGE

"Zone Change" means a change of the zoning of one or more properties, as shown on the zoning map adopted by the City of Independence.

13.050 Historic Preservation Definitions

CONTRIBUTING RESOURCE

“Contributing Resource,” for the purpose of Subchapter 59 of this code, means a building, Site, or object, originally constructed within the applicable Period of Significance that retains and exhibits significant integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties strengthen the historic integrity of an existing or potential historic district, as indicated on the Local Historic Register.

DEMOLITION

“Demolition” means the intentional destruction of all or a part of a building or structure.

DISTRICT

“District” or “Historic District” means an area designated pursuant to Subchapter 59 of this code which includes buildings, properties or sites of historical or architectural significance. National Historic District means a District listed on the National Register of Historic Places. Local Historic District means a District listed on the Local Historic Register. Certain Resources may be designated within both Local and National Historic Districts.

HISTORIC PRESERVATION COMMISSION

“Historic Preservation Commission” means the body of appointed officials established in Independence Municipal Code (IMC) Section 2-260. For purposes of review procedures under this Subchapter, the Historic Preservation Commission replaces the Planning Commission as the initial review body.

HISTORIC PRESERVATION OFFICER

“Historic Preservation Officer” means the city official responsible for the administration of this code.

HISTORIC RESIDENTIAL OVERLAY

"Historic Residential Overlay" means a portion of a historic district, defined on a map that has been adopted by the City of Independence which is typified by residential dwellings. The residential standards for new construction apply to the area, even if a commercial use or multifamily dwelling is proposed within the structure.

INDEPENDENCE NATIONAL HISTORIC DISTRICT

"Independence National Historic District" means the District designated on the National Register of Historic Places through the 1989 Record of Designation, as shown on City of Independence official zoning map.

LISTED RESOURCE

"Listed Resource" means an individual historic resource, which has not been designated as part of a larger district, which has been placed on the Local Historic Register.

LOCAL HISTORIC REGISTER

"Local Historic Register" means the list of historic Resources officially recognized by the City of Independence as important in its history and afforded protection under this subchapter.

NATIONAL REGISTER OF HISTORIC PLACES

"National Register of Historic Places" or "National Register" means the nation's official list of buildings, Sites, objects, and districts that are important for the nation's history and maintained by the National Park Service in Washington, D.C. The list includes "national register resources" as designated by OAR 660-023-0200(8).

NONCONTRIBUTING RESOURCE

"Noncontributing Resource" means a building, Site, or object that does not retain or exhibit sufficient integrity (location, design, setting, materials, workmanship, feeling and association) to contribute to an existing or potential historic District in its current condition. Noncontributing Resources may include "historic Noncontributing Resources," which are historic, and "out-of-period Noncontributing Resources," which are not considered historic. By virtue of their location within a historic district, Noncontributing Resources are nonetheless subject to the requirements of this subchapter.

PERIOD OF SIGNIFICANCE

"Period of Significance" means the span of time when a Resource or District attained its significance to meet the local or National Register Criteria.

RECORD OF DESIGNATION

"Record of Designation" means the official document that describes how a resource meets the criteria for listing in the Independence Local Historic Register. For properties listed in the Independence National Historic District, the Record of Designation includes the 1989 designation document for the district, and subsequent updates to the designations approved by the State Historic Preservation Office and the National Park Service.

RELOCATION

"Relocation" means the movement of a Resource from its current location.

RESOURCE

"Resource" means a building, Site, object, or district that is listed in the Local Historic Register. A Resource may also be called a "Landmark."

SITE

"Site," for the purpose of Subchapter 59 of this code, means the location of a significant event, prehistoric or historic occupation or activity, or a building, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of any existing building or object.

SUBCHAPTER 14: ANNEXATIONS

14.000 – 14.020 Reserved for Expansion

14.030 Master Plan Requirement for Southwest Independence Concept Plan Area

A. Purpose. A master plan is required as part of the annexation of any property within the Southwest Independence Concept Plan Area. This requirement is intended to provide the City with a concept of the holistic development of the annexation area to ensure that the project meets the various standards included within this Section, while providing the applicant with a reasonable assurance that the various phases of the project are feasible.

The 2012 Southwest Independence Concept Plan establishes the overall vision and land use framework for the area in the Southwest Independence Concept Plan, which should form the basis of any Master Plan submitted. The Southwest Plan, however, has been refined in part by the 2024 Central Talmadge Plan. Where the Central Talmadge Plan addresses a site or a portion of a site, that plan shall govern.

B. Applicability and Procedure.

1. A Master Plan approval is required concurrent with the annexation of any property within the Southwest Independence Concept Plan boundaries (see Figure 9 in the Concept Plan).

2. A Master Plan shall include the entire subject tax lot. At the option of the applicant, a Master Plan may include adjacent tax lots under the same or different ownership. All subject property owners must be listed as applicants and provide signatures on the application form.

3. Once approved, a Master Plan does not expire. The approved Master Plan shall replace and supersede the adopted Southwest Independence Concept Plan for the subject property or properties. An approved Master Plan may be amended pursuant to Section 14.030(E).

4. Once approved, subsequent land division and development review applications shall be reviewed for consistency with the Master Plan.

C. Submittal Requirements. A Master Plan shall be drawn at a minimum scale of 1” = 100 ft and may include multiple sheets. The following information shall be shown on the plan:

1. The general location of collector streets (within a corridor width of 100 feet);

2. The general size and location of any park land;

3. The general size and location of any trail/stormwater/drainage corridors, with potential off-site connections shown;

4. Identification of the required riparian corridor setback along South Fork Ash Creek, if applicable to the subject property or properties;

5. The general location and size of areas intended for low, medium and high-density housing, along with anticipated densities for each, and a description of how any high-density housing proposed is in the following locations.

    a. In locations shown in the Central Talmadge Plan, if applicable.

    b. At locations that meet one of the following characteristics if the project is not located in the Central Talmadge Plan boundaries:

        i. At gateways and along corridor and arterial streets.
        ii. Closest to existing services and commercial areas.
        iii. Adjacent to parks, natural areas, or other amenities.

6. An indication of how the master plan meets the overall minimum average density of 9 units per acre.

7. Anticipated phasing of development, if applicable.

D. Approval Criteria. A Master Plan shall be approved as part of the annexation process if it meets the following criteria:

1. The Master Plan is generally consistent with the locations and amounts of low, medium and high-density residential development shown in Figure 9 of the Southwest Independence Concept Plan. Provided that, if the property is within both the Southwest Independence Concept Plan and the Central Talmadge Plan, the plan is consistent with Figure 33 of the Central Talmadge Plan.

2. The Master Plan achieves the minimum target density of an average 9 units per net acre.

3. The Master Plan demonstrates that at least 15 percent of all dwelling units will be either in multiple-family or attached single-family structures.

4. The Master Plan is consistent with the Concept Plan policies in Section 3 of the adopted Concept Plan.

5. The Master Plan identifies trail/riparian/stormwater corridor easements along South Fork Ash Creek that are consistent with Figure 9 of the Concept Plan. The width of the corridor may vary from the Concept Plan depending on the

results of wetland delineation and location of any wetland restoration or mitigation. At a minimum, the corridor must include the following:

a. The required 25-foot setback along Ash Creek as established in Subchapter 54.105;

b. Identified floodplain area;

c. Additional 40-foot wide area for stormwater management and multi-use trail (can be inside floodplain but outside any established wetland); and

d. Wetland areas as follows:

i. Any delineated wetland area that will be protected and/or restored.
ii. Any new wetland area created as mitigation for removal of wetlands in other areas of the site.

E. Modifications to an Approved Master Plan. Any modifications to an approved Master Plan must be approved by the City through a Type I administrative review (Planning Director decision with no public hearing). Modifications to an approved Master Plan must meet the following criteria:

1. The plan demonstrates that medium and high-density housing is located in one or more of the following areas:

a. In locations shown in the Central Talmadge Plan, if applicable.

b. At locations that meet one the following characteristics if the project is not located in the Central Talmadge Plan boundaries:

i. At gateways and along corridor and arterial streets.
ii. Closest to existing services and commercial areas.
iii. Adjacent to parks, natural areas, or other amenities.

2. The plan achieves the target density of an average of 9 units per net acre.

3. The plan demonstrates that at least 15 percent of all dwelling units are either in multiple-family or attached single-family structures.

4. The plan identifies trail/riparian/stormwater corridor easements along Ash Creek that are consistent with Figure 9 of the Concept Plan. The width of the corridor may vary from the Concept Plan depending on the results of wetland delineation and location of any wetland restoration or mitigation. At a minimum, the corridor must include the following:

a. The required 25-foot setback along Ash Creek as established in Subchapter 54.105;

b. Identified floodplain area;

c. Additional 40-foot wide area for stormwater management and multi-use trail (can be inside floodplain but outside any established wetland); and

d. Wetland areas as follows:

    i. Any delineated wetland area that will be protected and/or restored
    ii. Any new wetland area created as mitigation for removal of wetlands in other areas of the site.

SUBCHAPTER 17: ALLOWED USES IN RESIDENTIAL ZONES

ALLOWED USES	ZONE			
RESIDENTIAL USES	**RS**	**RM**	**RH**	**MX**
Dwelling, Single-Unit	P	P	P	P
Accessory Dwelling Unit	P[1]	P[1]	P[1]	P[1]
Dwelling, Duplex	P	P	P	P
Dwelling, Townhouse (up to 4 attached townhouses per structure)	P	P	P	P
Dwelling, Triplex	P	P	P	P
Dwelling, Quadplex	P	P	P	P
Cottage Cluster Development		P	P	P
Dwelling, Multi-Unit			P	P
Manufactured Dwelling Park, in accordance with the provisions of Subchapter 61		CU	CU	
Single room occupancy use, subject to the requirements in ORS 197A.430	P	P	P	P
Dormitory			P	
Fraternity, sorority, or student house			P	
Residential home, as defined by this ordinance	P	P	P	
Residential facility, as defined in this ordinance	CU	P	P	
Nursing home			P	
Planned unit development	CU	CU	CU	CU
Parking area or structure for a multi-family dwelling		P	P	
Accessory uses and structures[2]	P	P	P	P
PUBLIC/QUASI-PUBLIC USE				
Structure or facility necessary for the City or for a public utility to provide service within the City. Such structures shall include, but not be limited to: construction, operation, maintenance, or repair of electric service meters, lines, transformers, and poles; natural gas lines; telephone lines and poles; water and sewer lines; streets, pathways and sidewalks; including any project identified in the Transportation System Plan.	P	P	P	P
Buildings and structures operated by a governmental agency or by a public utility and necessary for public service. Such facilities shall include, but not be limited to fire stations, libraries, electrical substations, and water storage tanks. Such facilities shall not include commercial plants for the generating of electrical power.	CU	CU	CU	CU
Church	CU	CU	CU	CU
Community or neighborhood club building, swimming pool, and other allied facilities owned and operated by a nonprofit community club for the improvement of the neighborhood or	CU	CU	CU	CU

recreation of the members.				
Garden, orchard, or crop cultivation provided that only the occasional sale or trading of plants and produce grown on the premises shall be permitted. No cattle, horses, other livestock, poultry, or farm animals may be maintained in this zone.	P	P	P	P
Playground or park.	P	P	P	P
School (elementary, junior high, high school).	CU	CU	CU	CU
LIMITED BUSINESS				
Child care facility, as defined by this ordinance, complying with ORS 657A.030 and 657A.250 to 657A.460.	P	P	P	P
Day-Care Home, as defined in this ordinance.		P	P	
Home occupation	P	P	P	P
Barber shop, provided that no assistants are employed.	CU	CU	CU	
Beauty shop, provided that no assistants are employed.	CU	CU	CU	
Bed and breakfast establishment.	CU	CU	P	CU
Medical Marijuana Grow Site.	P	P	P	
Office having a maximum floor area of 2,000 square feet or less				P[3]
Retail, except drive-through facilities and vehicle servicing/repair having a maximum floor area of 2,000 square feet or less				P[3]

Notes:
P = Permitted use; CU = Conditional Use

1. Permitted in conjunction with single-unit dwellings.
2. Accessory uses allowed in residential zones include:
    a. Customary residential accessory buildings and structures for private use, such as a pergola, greenhouse, hobby shop, patio, porch, deck, wood shed, shelter for domestic pets of the resident, fence, and fallout shelter;
    b. Private garage, as defined in this ordinance;
    c. Parking area for one commercial vehicle having a gross vehicle weight less than 20,000 pounds;
    d. Parking or storage area for a boat, camper, trailer, or recreational vehicle of the residents;
    e. Swimming pool for private use;
    f. Guest house or quarters not in the main building, when such house or quarters are dependent upon the main building for either kitchen or bathroom facilities or both and are not used for residential purposes;
3. If sought, subject to Neighborhood Commercial Overlay provisions in Subchapter 47.

SUBCHAPTER 18: DENSITY, AREA, AND DIMENSION REQUIREMENTS IN RESIDENTIAL ZONES

DENSITY AND DIMENSION STANDARDS[1]		ZONE			
		RS	**RM**	**RH**	**MX**
Minimum Lot Area					
	Detached Single-Unit	4,800 sf	4,800 sf	4,800 sf	N/A[2]
	Townhouses/Rowhouses	2,400 sf	2,400 sf	1,800 sf	1,800 sf[2]
	Duplex, Triplex, Quadplex (average per unit)	2,400 sf	2,400 sf	1,800 sf	1,800 sf[2]
	Cottage Cluster Development	NA			
	Multiple-Unit Dwellings	N/A	N/A	N/A	N/A[2]
	All Other	4,800 sf	4,800 sf	4,800 sf	None
Minimum Lot Width					
	Townhouses/Rowhouses	20 ft	20 ft	20 ft	20 ft
	Multiple-Unit Dwellings	N/A	N/A	N/A	6 ft/unit min 30 ft/unit max
	All Other	N/A	N/A	N/A	35 ft min 100 ft max
Minimum Setbacks					
-Primary Structures					
	Front	10 ft	10 ft	5 ft	10 ft
	Side	5 ft (10 ft on Corner Lot)			None
	Rear	10 ft	10 ft	10 ft	None
	Alley (Side or Rear)	5 ft	5 ft	5 ft	5 ft
-Attached Garages					
	Garage entrances facing a public street access (driveway length)	19 ft (and 4 feet behind façade)[3]			
	Other	Same as primary structure			
-Detached Garages					
	Front	40 ft	40 ft	40 ft	N/A
	Side (Corner/Alley)	5 ft	5 ft	5 ft	N/A
	Side (Interior)	0	0	0	N/A
	Rear (Interior Lot)	0	0	0	N/A
	Rear (Abutting a Street or Alley)	1 ft	1 ft	1 ft	N/A
	Rear (Corner lot or Other)	Same as Primary Structure			
-Detached Accessory Structures Other than Garages and Fences					
	Front	Same as Primary Structure			

		RS	RM	RH	MX
	Side and Rear	5 ft	5 ft	5 ft	N/A
Maximum Lot Coverage					
	Single-Unit Dwellings	40%	40%	45%	40%
	Multiple-Unit Development	N/A	N/A	60%	70%
	All other Residential Development	45%	45%	50%	50%
	Non-residential development	40%	40%	45%	None
Maximum Height					
	Residential Uses	35 ft	35 ft	45 ft	35 ft
	Church/Public Service Buildings	45 ft	45 ft	45 ft	45 ft
	Other Primary Structure	35 ft	35 ft	45 ft	35 ft
	Accessory Building	15 ft (or, if primary building is multiple stories, the lesser of the height of the primary building or 25 feet)			

Notes:

1. Larger setbacks may be required as a result of the building code.
2. The average density of residential development in the MX zone must be at least 9 units per acre.
3. May be modified per the provisions for garages in front of buildings in IDC 74.005(B)(2).

SUBCHAPTER 19: RESIDENTIAL DESIGN STANDARDS

19.005 Residential Design Standards

A. Purpose.

The purpose of the residential design standards is to:

- Establish a base for the quality of the design of new homes;
- Foster pedestrian activity and community interaction;
- Promote the historic residential development patterns found in the Independence Historic District;
- Promote community safety for neighborhood streets and front yards by providing “eyes on the street”; and
- Enhance community livability through the creation of attractive and well-designed housing and streetscapes.

For more information, see Appendix 3: Residential Development Standards, City of Independence (2009). Note: Information contained in Appendix 3 is for information purposes only. When a conflict exists between Appendix 3 and the Independence Development Code, standards contained in the Independence Development Code shall apply.

B. Applicability.

1. This section is applicable to:

   a. All newly constructed residential dwellings except manufactured homes located in manufactured home parks.
   b. Projects that propose to expand, remodel or alter an existing structure. The standards shall only apply to the portion of the building that will be changed. Provided that if a proposal seeks to continue a feature on the existing building such as the window orientation or style, roof dimension, or siding, the relevant standard may be waived.

2. The section is not applicable to:

    a. Normal repair of a building.

3. For developments permitted before January 2, 2033, per ORS 197A.400, detached single-unit, duplex, triplex, quadplex, townhouse and cottage cluster developments with 20 or more units are exempt from any residential design standard that is intended to preserve the desired character, architectural expression, decoration or aesthetic quality of new homes, including standards regulating the following elements. All other design and siting standards in this code shall apply to the dwellings.

    a. Facade materials, colors or patterns;
    b. Roof decoration, form or materials;
    c. Accessories, materials or finishes for entry doors or garages;
    d. Window elements such as trim, shutters or grids;
    e. Fence type, design or finishes;
    f. Architectural details, such as ornaments, railings, cornices and columns;
    g. Size and design of porches or balconies;
    h. Variety of design or floorplan; or
    i. Front or back yard area landscaping materials or vegetation.



Street Facing Facade. *[1] Attached garages on multi-dwelling units should not exceed 50% of the total building length as viewed from the street. [2] The maximum number of detached garages for attached or multi-family units is 4 attached garages that are a maximum of 24 feet wide each.*

C. Large Building Elevation

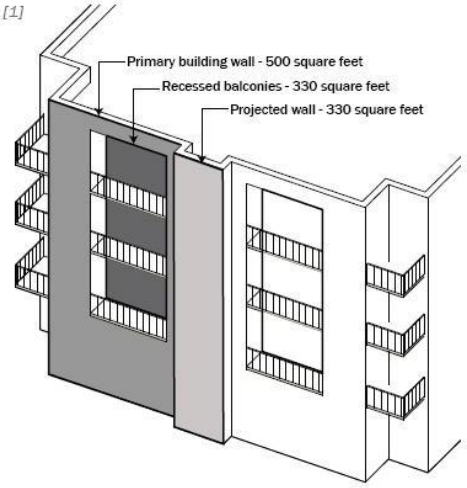
The front elevation of buildings with over 500 square feet of surface area shall be divided into distinct planes consisting of 500 square feet or less. This can be achieved by:

1. Incorporating elements such as a porch or a dormer into the wall plane.

2. Recessing the building a minimum of two (2) feet over a distance of six (6) feet.

3. Providing a bay window that extends a minimum of two (2) feet from the primary street-facing facade.

[1]



[2]



[3]

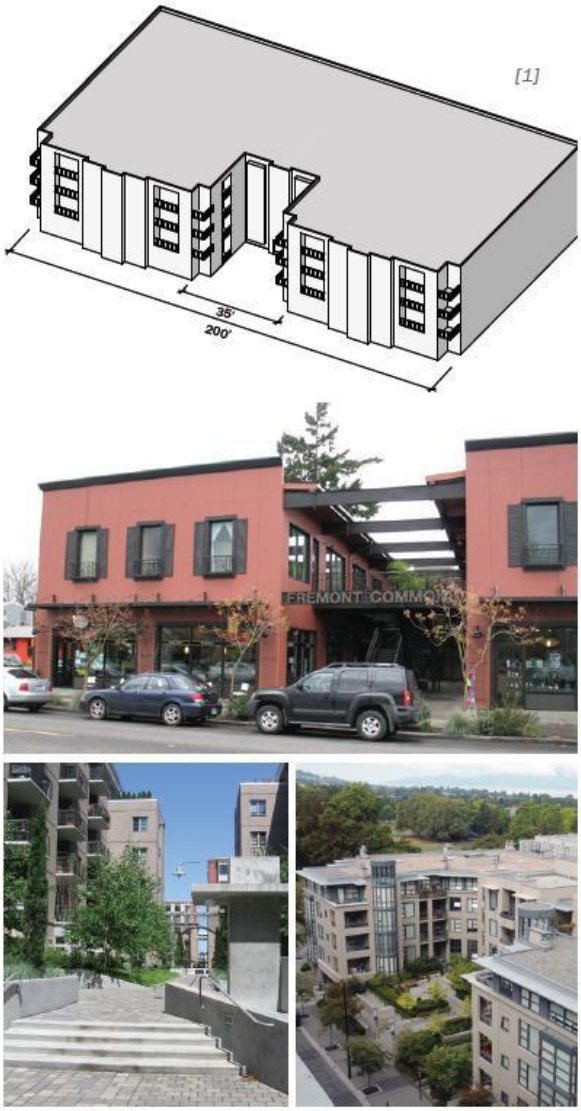




Large Building Elevation. *[1] The front elevation of buildings with street-facing facades greater than 500 square feet should carve the building face into smaller, distinct planes, which can be accomplished by [2] incorporating a porch or dormer into the wall plan or [3] recessing the building a minimum of 2 feet over 6 feet.*

D. Building Length

1. The maximum building length for multiple-dwelling buildings that face the street shall be 100 feet. This maximum length can increase to 200 feet if a courtyard, portal, or other shared open space is provided in order to create a break in the building wall. This open space shall be a minimum of 35 feet in width and depth.
2. The maximum building length for row houses shall not exceed four (4) units, or 100 feet (from end- wall to end-wall), whichever is less.



Building Length. *In order to control the bulk of buildings and maintain a sense of pedestrian safety and intrigue [1] the maximum building length for multi-dwelling buildings shall be 100 feet, which can increase to 200 feet if a break is provided that is a minimum of 35 feet deep and wide [2] A break can be a portal or space between buildings or [3] a courtyard that provides a transition from the public realm to the private realm.*

E. Main Entrance

1. Buildings shall have their primary pedestrian orientation and pedestrian entrance(s) oriented to the street that serves the project site.

2. If a proposal seeks to construct a duplex, townhouse, triplex, quadplex or multi-unit structure and the project is situated on two streets, the project shall orient one or more units to each street. Provided that, the units may be oriented to the same street, if the parking is accessed off the other street.

3. Primary pedestrian entrance(s) shall connect to the sidewalk via a straight path that is a minimum of five (5) feet wide. Where there is a continuous paved connection between the sidewalk and the front entrance, and if the driveway is within 20 feet of the front door, the driveway may be used to meet this standard.

   Triplex, quadplex, and multiple-unit building entrances may include entrances to individual units, lobby entrances, or breezeway/courtyard entrances (i.e., to a cluster of units).

   Alternatively, a building may have its entrance oriented to a side yard when a direct pedestrian walkway, a minimum of five (5) feet wide, is provided between the building entrance and the





Main Entrance. *Buildings should have [1] front doors that face the street and connect to the sidewalk via a 5 foot wide path at a minimum [2] Porches should be an extension of the living space and be at a minimum 5 feet clear in depth.*

street. In this case, at least one entrance shall be provided not more than 20 feet from the closest sidewalk or street.

4. Porches and stoops shall not be constructed more than three (3) feet above the finished exterior grade (except if the dwelling is in a designated floodplain). Porches and stoops shall be a minimum of 25 square feet in area and five (5) feet deep, clear from column face to the face of the primary facade to allow for handicap access.

5. For triplex, quadplex, and multi-unit buildings, pedestrian connections shall be created between the front doors of all buildings and the street-facing sidewalk. These connections shall be paved with a material that meets ADA accessibility standards.

F. Vehicular Access and Garages

1. Vehicular Access

a. When a project is proposed on a corner lot along an arterial or collector road, the parking shall be accessed off the lower classified street or an adjacent alley, unless the applicant demonstrates consistent with the Public Works Design Standards that the access via the lower classified street or alley is not possible.

b. Townhomes, rowhouses, duplexes, triplexes, quadplexes and other configurations of more than two dwelling units on a lot shall comply with all of the following standards:

i. Where an alley serves a lot, the required parking shall be taken from the alley. Provided that, parking may occur via a current driveway if one exists.

ii. When a property is a corner lot, at least 50 percent of the required parking shall be accessed off the side of the lot with the largest frontage measurement.

iii. Surface parking shall not exceed 50 percent of the lot dimension along any street frontage. The calculation of the parking dimension shall include the width of any driveways.

iv. Adjacent units shall share one driveway when individual driveways would otherwise be separated by less than 20 feet (i.e., the width of one on-street parking space). When a driveway serves more than one lot, the developer shall record an access and maintenance easement/agreement to benefit each lot, before building permit issuance.

2. When garages face the street, they shall be recessed behind the façade by a minimum of 4 feet.

3. Any street-facing attached garage shall not exceed 50 percent of the overall building length as viewed from the street. For example, a 24-foot-wide unit may have one 12-foot-wide recessed garage facing the street.

4. The maximum number of detached garages for attached or multiple-dwelling units is four (4) attached garages of a maximum width of 24 feet each (corresponding to a two-car garage).

5. Detached car ports are allowed provided that:

   a. They meet all standards for garages.

   b. They do not exceed the overall lot coverage requirement.

   c. They have a capacity of no more than eight (8) vehicles.

G. Roof Forms

For pitched or hipped roof residential buildings:

1. Except for manufactured dwellings, the primary roof shall incorporate a minimum 4/12 roof pitch. Lower roof pitches are allowed on porches.

2. In order to reinforce the pedestrian realm, roof forms shall consist of a primary gable or hip roof with one of the following additional roof forms oriented to the street:

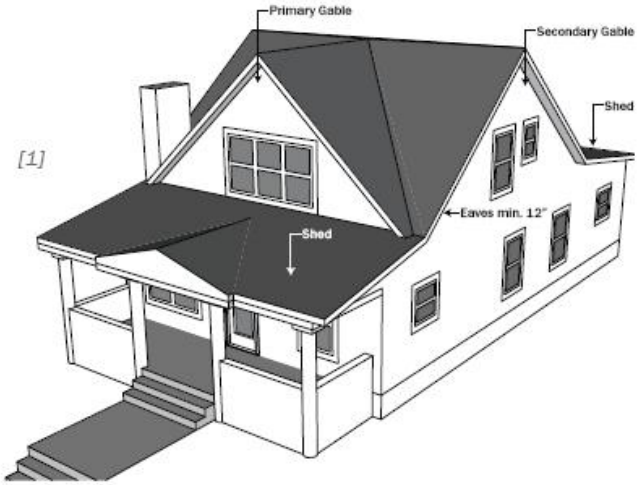
    a. A secondary gable of equal or smaller size that is oriented to the street and extends from the primary roof form.

    b. Two or more smaller dormers or a single large dormer that is oriented to the street and extends from the primary roof form.

    c. A covered front porch that encompasses a minimum of 50% of the street facing living space.

3. All roof eaves (overhangs) shall be a minimum of 12 inches wide.

4. Window(s), trimmed vent(s), changes in siding material, knee braces, or a thick frieze board along the roofline shall be incorporated into the gable. For







Roof Forms. *[1] Roof pitches less than 4 over 12 are prohibited and roof forms will consist of more than a single large roof form [2] Gables shall be decorated with window(s), trim or a vent [3} Roof eaves will project at a minimum 12 inches.*

homes set on a corner lot, these features shall also be incorporated when a gable is oriented to the secondary street.

H. Exterior Siding and Cladding

1. The following siding and cladding materials shall be allowed outright and must be used on all sides of the dwelling and accessory structures:

    a. Horizontal wood or cementitious siding that has a maximum of 7 inches in width revealed. Horizontal siding or banding with a reveal exceeding 7 inches may be used for secondary purposes.

    b. Wood or cementitious shingles that have a maximum of 12 inches in width revealed.

    c. Board and batten vertical siding.

    d. Brick or stone veneer.

2. In order to promote high-quality buildings that will be maintained for generations, the following materials shall be prohibited:

    a. T-111 or similar sheet materials.

    b. Plastic or Vinyl. This requirement does not apply to trim materials.



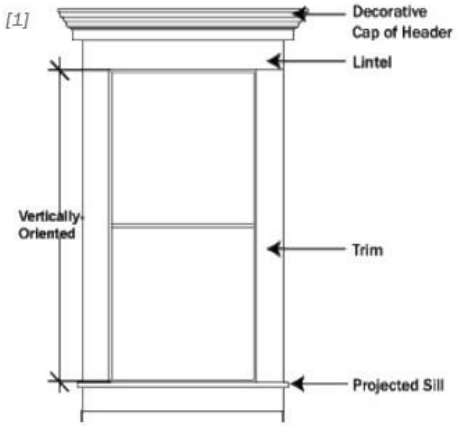
Exterior Siding and Cladding. *[1] Wood or cementitious siding that has a maximum of 7 inches in width revealed and [2] wood or cementitious shingles that have a maximum of 12 inches in width revealed are allowed outright along with board and batten vertical siding and brick or stone veneer.*

I. Required Street and Alley Windows

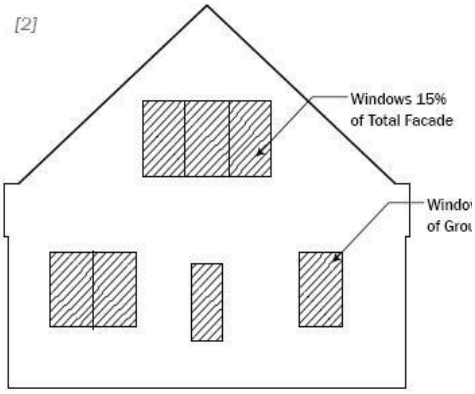
1. All detached single-unit dwellings, townhouses, rowhouses, duplexes, triplexes, quadplexes, and cottage cluster dwellings shall have vertically oriented windows along required street and alley facades. Square or horizontal windows shall be formed by combining multiple window sashes into groupings. Transom windows and other windows placed above a door or window for ornamental or decorative purposes are exempt from this requirement.

2. Windows shall occupy a minimum of the alley and street-facing facades shown in Table 19.005-1:

[1]



[2]



Front façade window coverage: - 25% ground floor façade, single detached unit - 15% ground floor façade, other housing

[3]



Table 19.005-1 – Street and Alley Façade Window Requirements[1]

	Front – Ground Floor Living Façade Area Façade[2] (Percent)	Side – Ground Floor Living Façade Area[2] for Corner Lots (Percent)	Front or Side – Overall Façade Area[3]	Rear – Ground Floor Living Area and Total Façade Area
Detached, Single-Unit Building	25	15	15	0
Other Development	15	15	15	0

[1] Front or side window requirements only apply to streets and alleys. No windows are required on the rear of a structure so long as the required windows are provided on the front and sides of the structure.

[2] Ground floor living façade area is the length of the home facing the street or alley multiplied by the height of the first floor. The area does not include any area included in a garage.

[3] Overall facade area is the length of the home facing the street or alley multiplied by the height of the structure. The area does not include any areas included in a triangle created by a sloped roof.

Examples of the location of required windows are provided in Figure 19.005-1

Figure 19.005-01



3. The windows must meet the requirements of IDC 19.005(I)(5).

4. The following types of windows are prohibited along street and alley facing facades:

    a. Horizontal slider windows.
    b. Windows that use “mirror” or reflective glass.

5. All windows on the street and alley-facing façades shall incorporate all of the following elements:

    a. A decorative header/cap.
    b. Continuous trim.
    c. Projected windowsill.

J. Non-Required Windows. All non-required windows shall incorporate continuous trim.

K. Doors

Doors shall be made of wood, metal-clad wood, metal, or cast fiberglass, provided that the material reflects a traditional wood door and can be painted.



Doors. *All residential doorways should face the street in order to connect the interior of the residence with the sidewalk and street in order to foster a more inviting and safe pedestrian environment.*

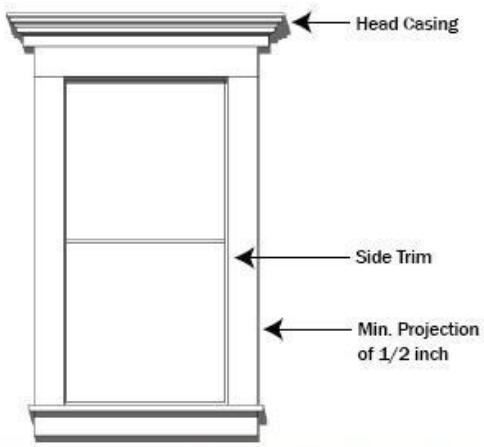
L. Trim

1. All required street and alley facing windows and doors shall have side trim and head casings. Windows shall also have a projected or articulated windowsill.

2. All non-required windows shall have continuous trim.

3. Trim shall be a minimum of 3 ½ inches wide and project no less than a ½ an inch from the wall.

[1]



[2]









Trim. *[1] All street-facing windows and doors shall have side trim and head casings [2] Trim shall be at a minimum 3½ inches wide and project no less than ½ an inch from the wall.*

M. Foundations

1. Concrete block, poured in place concrete, or brick shall be allowed as foundation material on all residential types, provided that the foundation material is no more than three (3) feet above the street facing finished grade (except if the dwelling is in a designated floodplain).

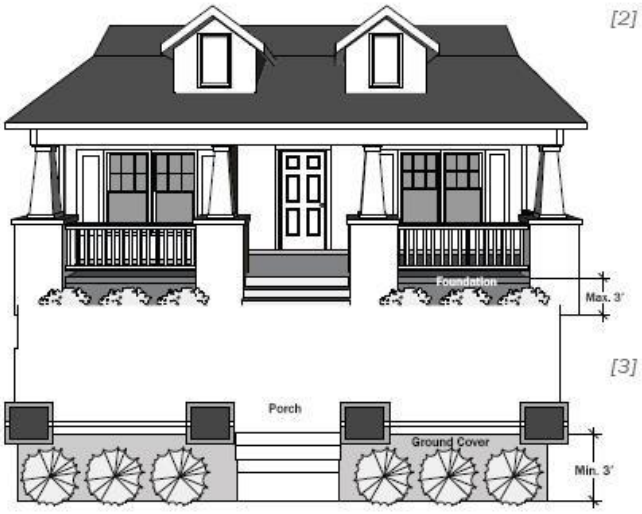
2. All street facing concrete block and poured in place concrete foundations shall be landscaped with a continuous line of planting materials that are a minimum of 50% site obscuring and three (3) feet high at maturity.

Exposed foundations or front porches can be sheathed with wood siding (clapboard) as an extension of the primary façade.

[1]



[2]



Foundations. *Allowed foundation materials include concrete block, poured in place concrete, and brick [1] Concrete block and poured in place concrete should be landscaped with a continuous materials that obscure the foundation [2] These planting materials should be 50% obscuring and 3 feet high at maturity [3] The landscaped area should be 3 feet deep and covered with ground cover where not planted with site planting materials.*

19.020 Special Standards for Certain Uses

A. Single-Unit Attached Townhomes, Rowhouses, Triplexes and Quadplexes. Single-unit attached housing (townhome units on individual lots), rowhouse, triplex and quadplex developments shall comply with the standards in 1-3, below. The standards are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. Building Mass Supplemental Standard. The maximum number and width of consecutively attached townhomes (i.e., with attached walls at property line) shall not exceed four (4) units, or 100 feet (from end-wall to end-wall), whichever is less.

2. Provision of Alleys. Townhome, rowhouse and duplex subdivisions (4 or more lots) may receive vehicle access from a rear alley. Proposed new alley(s) shall be created at the time of subdivision approval. Alleys are not required when existing development patterns or topography make construction of an alley impracticable (See #3 for standards). As necessary, the city shall require dedication of right-of-way or easements and construction of pathways between townhome lots (e.g., between building breaks).

Figure 19.020 (1) - Townhomes With Alley Access

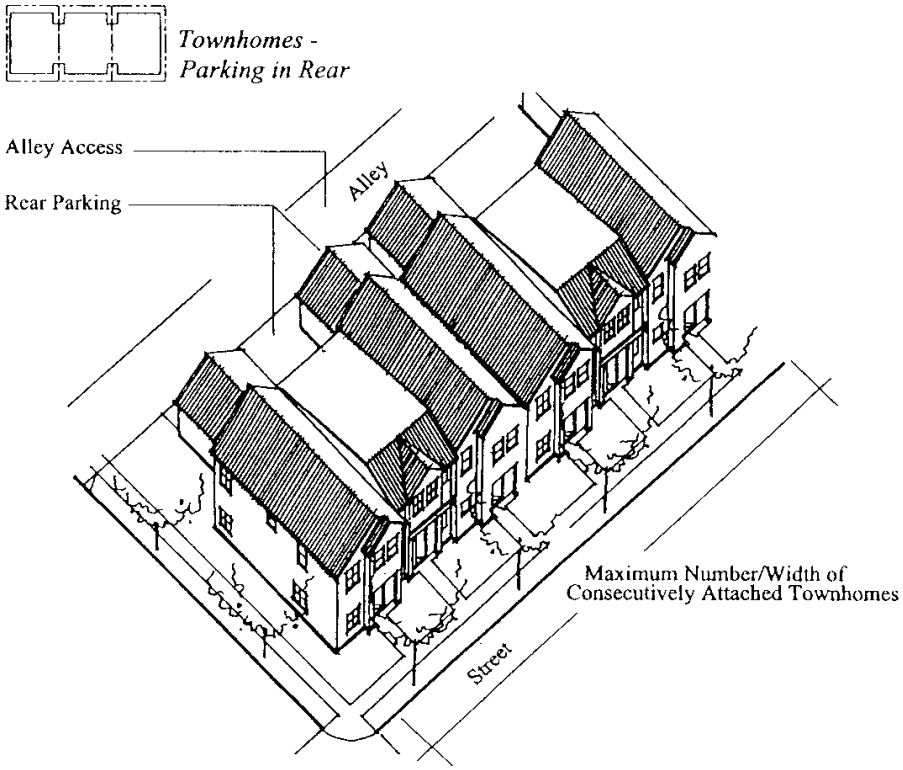
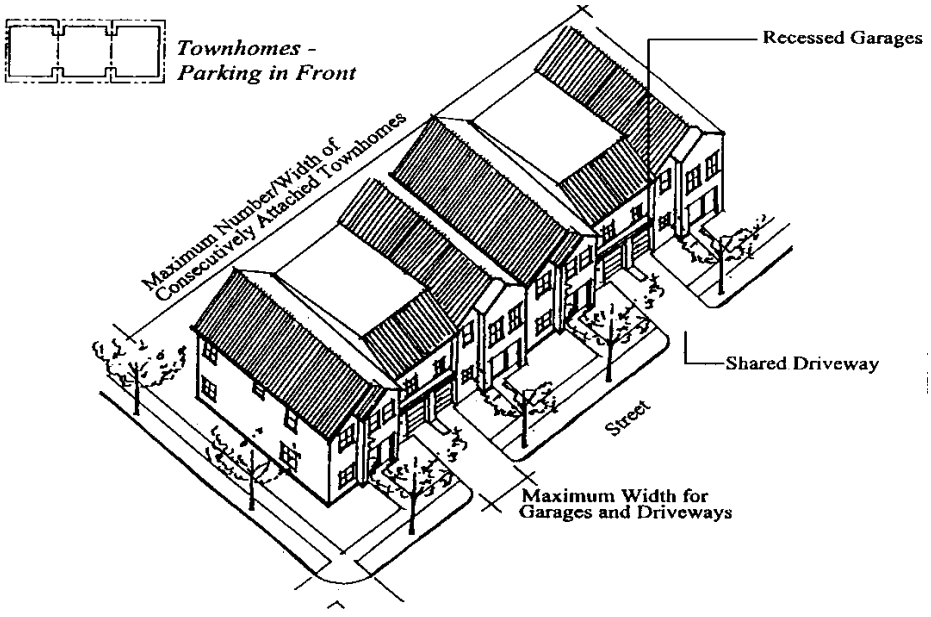


Figure 19.020(2) - Townhomes With Street Access



3. Common Areas. “Common areas” (e.g., landscaping in private tracts, shared driveways, private alleys, and similar uses) shall be maintained by a homeowners association or other legal entity. A homeowners association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city before building permit approval.

B. Multiple-unit housing. Additional standards for multi-unit housing are listed in the applicable underlying zone.

SUBCHAPTER 20: LOW-DENSITY RESIDENTIAL (RS) ZONE

20.005 Purpose

The purpose of the RS Zone is to define and protect areas suitable for low-density residential uses.

20.015 Permitted and Conditional Uses

Allowed permitted and conditional uses within the Low-Density Residential Zone are presented in Subchapter 17. Uses not allowed within the matrix are considered to be prohibited, except as provided in Section 10.050.

20.021 Prohibited Uses

The following uses are prohibited in the RS Zone:

A. Medical Marijuana Processing Site.

B. Medical Marijuana Dispensary.

C. Recreational Marijuana Producer.

D. Recreational Marijuana Processor.

E. Recreational Marijuana Wholesaler.

F. Recreational Marijuana Retailer.

G. Marijuana Research Facility.

H. Marijuana Testing Laboratory.

20.030 Density, Area and Dimension Requirements

Allowed density, height, lot area, lot coverage, setbacks and other area and dimension requirements in the Low-Density Residential Zone are presented in Subchapter 18.

20.055 Off-street Parking

A. Number of Spaces Required. The required number of parking spaces shall be as specified in Subchapter 73.

B. Parking Types Allowed.

1. Garage. A garage is allowed subject to the design and setback requirements of the zone.

2. Carport.

    a. If an attached carport is proposed, the structure shall meet the setback and applicable design requirements for an attached garage.

    b. If a detached carport is proposed, the structure shall meet the design and setbacks for detached garages, provided that the side yard setback shall be at least five (5) feet.

3. No Carport or Garage. Where a garage or carport is not proposed, two paved, 10 by 20-foot off-street parking spaces are required for each single-family dwelling or duplex unit.

C. Width of Paving. In no instance shall a paved portion of the front or side yard exceed more than 50 percent of the lot width.

20.060 Residential Design Standards

Residential design standards for structures in the Low-Density Residential Zone are presented in Subchapter 19.

20.070 Reference to Additional Standards

Additional or alternative use and development standards may be found in the following chapters:

A. Flood Damage Prevention	Subchapter 51
B. Willamette Greenway Development District	Subchapter 52
C. Buffering/Screening/Landscape/Ash Creek Setbacks	Subchapter 54
D. Planned Unit Developments	Subchapter 60
E. Manufactured Dwellings	Subchapter 61
F. Home Occupations	Subchapter 72
G. Parking	Subchapter 73
H. Accessory Structures	Subchapter 74
I. General Development Standards	Subchapter 75

SUBCHAPTER 21: MEDIUM-DENSITY RESIDENTIAL (RM) ZONE

21.005 Purpose

The purpose of the Medium-Density Residential (RM) Zone is to define and protect areas suitable for low or medium-density residential uses. Such areas are intended for the development and use of single-family dwellings and medium-density residential structures such as duplexes, row houses, and townhouses.

21.015 Permitted and Conditional Uses

Allowed permitted and conditional uses within the Medium-Density Residential Zone are presented in Subchapter 17. Uses not allowed within the matrix are considered to be prohibited, except as provided in Section 10.050.

21.021 Prohibited Uses

The following uses are prohibited in the RM Zone:

A. Medical Marijuana Processing Site.

B. Recreational Marijuana Producer.

C. Recreational Marijuana Processor.

D. Recreational Marijuana Wholesaler.

E. Recreational Marijuana Retailer.

F. Marijuana Research Facility.

G. Marijuana Testing Laboratory.

21.030 Density, Area and Dimension Requirements

Allowed density, height, lot area, lot coverage, setbacks and other area and dimension requirements in the Medium-Density Residential Zone are presented in Subchapter 18.

21.055 Off-Street Parking

A. Number of Spaces Required. The required number of parking spaces shall be as specified in Subchapter 73.

B. Parking Types Allowed.

    1. Garage. A garage is allowed subject to the design and setback requirements of the zone.

    2. Carport.

a. If an attached carport is proposed, the structure shall meet the setback and applicable design requirements for an attached garage.

b. If a detached carport is proposed, the structure shall meet the design and setbacks for detached garages, provided that the side yard setback shall be at least five (5) feet.

3. No Carport or Garage. Where a garage or carport is not proposed, two paved, 10 by 20-foot off-street parking spaces are required for each single-family dwelling or duplex unit.

C. Width of Paving. In no instance shall a paved portion of the front or side yard exceed more than 50 percent of the lot width.

D. Manufactured dwellings located in manufactured dwelling parks are required to install either a garage or carport.

21.060 Residential Design Standards

Design standards for residential uses in the Medium-Density Residential Zone are presented in Subchapter 19.

21.065 Development Standards for Multiple-Family Development

A. Signs. Signs shall be subject to the provisions of Subchapter 58.

B. Landscaping. All development is subject to the landscaping provisions in Subchapter 54. Recreation areas may be included as part of the required landscaping.

C. Screening. All exterior garbage collection areas, recycling areas, and mechanical equipment shall be screened to meet the standards of Section 54.010(C) of the Independence Development Code. Garbage collection areas, recycling areas and mechanical equipment shall be located away from the street.

D. Access. Access points to property from a street shall be located to minimize traffic congestion and avoid directing traffic into residential areas. Existing access roads and access points shall comply with the Public Works Design Standards. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

21.070 Reference to Additional Standards

Additional or alternative use and development standards may be found in the following chapters:

A. Flood Damage Prevention Subchapter 51

B. Willamette Greenway Development District Subchapter 52

C. Buffering/Screening/Landscape/Ash Creek Setbacks Subchapter 54

D. Planned Unit Developments Subchapter 60

E. Manufactured Dwellings Subchapter 61

F. Home Occupations Subchapter 72

G. Parking Subchapter 73

H. Accessory Structures Subchapter 74

I. General Development Standards Subchapter 75

SUBCHAPTER 22: HIGH-DENSITY RESIDENTIAL (RH) ZONE

22.005 Purpose

The purpose of the High-Density Residential (RH) Zone is to define and protect areas suitable for medium and high-density residential uses.

22.015 Permitted and Conditional Uses

Allowed permitted and conditional uses within the High-Density Residential Zone are presented in Subchapter 17. Uses not allowed within the matrix are considered to be prohibited, except as provided in Section 10.050.

22.021 Prohibited Uses

The following uses are prohibited in the RH Zone:

A. Medical Marijuana Processing Site.

B. Medical Marijuana Dispensary.

C. Recreational Marijuana Producer.

D. Recreational Marijuana Processor.

E. Recreational Marijuana Wholesaler.

F. Recreational Marijuana Retailer.

G. Marijuana Research Facility.

H. Marijuana Testing Laboratory.

22.030 Density, Area, and Dimension Requirements

Allowed density, height, lot size, lot coverage, setbacks, and other area and dimension requirements in the High-Density Residential Zone are presented in Subchapter 18.

22.055 Off-street Parking

A. Number of Spaces Required. The required number of parking spaces shall be as specified in Subchapter 73.

B. Parking Types Allowed.

    1. Garage. A garage is allowed subject to the design and setback requirements of the zone.

    2. Carport.

a. If an attached carport is proposed, the structure shall meet the setback and applicable design requirements for an attached garage.

b. If a detached carport is proposed, the structure shall meet the design and setbacks for detached garages, provided that the side yard setback shall be at least five (5) feet.

3. No Carport or Garage. Where a garage or carport is not proposed, two paved, 10 by 20-foot off-street parking spaces are required for each single-family dwelling or duplex unit.

C. Width of Paving. In no instance shall a paved portion of the front or side yard exceed more than 50 percent of the lot width.

D. Manufactured dwellings located in manufactured dwelling parks are required to install either a garage or carport.

22.060 Residential Design Standards

Design standards for residential uses in the High-Density Residential Zone are presented in Subchapter 19.

22.065 Development Standards for Multiple-Family Development

All multiple-unit residential developments in the RH Zone shall comply with the following specific standards:

A. Signs. Signs shall be subject to the provisions of Subchapter 58.

B. Landscaping. All development is subject to the landscaping provisions in Subchapter 54. Recreation areas may be included as part of the required landscaping.

C. Screening. All exterior garbage collection areas, recycling areas, and mechanical equipment shall be screened to meet the standards of Section 54.010(C) of the Independence Development Code. Garbage collection areas, recycling areas and mechanical equipment shall be located away from the street.

D. Recreation Area. Each lot having a multiple-unit residential building on it shall have at least 300 square feet of recreation area per dwelling unit. The required recreation area can be located within the required front or rear yards and shall include a combination of planted grass and hardscape areas. Hardscape areas shall not account for more than 50% of the total area. Recreation areas that are provided as shared areas for multiple units shall include a combination of the following amenities:

1. Outdoor seating.

2. Small play structures or nature play structures.

3. Planted grass areas.

E. Access. Access points to property from a street shall be located to minimize traffic congestion and avoid directing traffic into residential areas. Existing access roads and access points shall comply with the Public Works Design Standards. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

22.070 Reference to Additional Standards

Additional or alternative use and development standards may be found in the following chapters:

A. Flood Damage Prevention	Subchapter 51
B. Willamette Greenway Development District	Subchapter 52
C. Buffering/Screening/Landscape/Ash Creek Setbacks	Subchapter 54
D. Planned Unit Developments	Subchapter 60
E. Manufactured Dwellings	Subchapter 61
F. Home Occupations	Subchapter 72
G. Parking	Subchapter 73
H. Accessory Structures	Subchapter 74
I. General Development Standards	Subchapter 75

SUBCHAPTER 23: MIXED-DENSITY RESIDENTIAL (MX) ZONE

23.005 Purpose

The purpose of the Mixed Density (MX) Residential Zone is to allow a creative mixture of housing styles and types available to citizens of diverse ages and incomes. Development in the MX Zone should provide a coordinated and attractive living environment that responds to local conditions and emphasizes a range of good circulation opportunities for walking, bicycling, and driving personal vehicles. The MX Zone is also intended to implement the Southwest Independence Concept Plan and the Central Talmadge Plan, where applicable. Consistency with the Southwest Independence Concept Plan and Central Talmadge Plan will be established through the Master Plan requirement during the annexation process.

23.010 Density

To achieve balance and integration of a range of housing types, sizes, and densities, the Mixed Density Residential (MX) Zone relies on two criteria.

A. The intent of the MX Zone is to achieve a minimum average density of nine (9) dwelling units per net acre of residential land, while allowing a mix of lot sizes and densities. Net acres of residential land means the total site area devoted to residential uses, not including the area of streets, other rights-of-way to be dedicated to the public, or protected wetland or riparian areas. Net acres does include any area to be devoted to the trail/stormwater/drainage corridors located along the edges of the planning area and adjacent to riparian and wetland areas or corridors.

B. To reflect the demand for higher-density housing within the region, at least 15 percent of the units must be either in multiple-family or attached single-family structures.

23.015 Permitted and Conditional Uses

Allowed permitted and conditional uses within the Mixed Density Residential Zone are presented in Subchapter 17. Uses not allowed within the matrix are considered to be prohibited, except as provided in Section 10.050.

23.021 Prohibited Uses

The following uses are prohibited in the MX Zone:

A. Medical Marijuana Grow Site.

B. Medical Marijuana Dispensary.

C. Medical Marijuana Processing Site.

D. Recreational Marijuana Producer.

E. Recreational Marijuana Processor.

F. Recreational Marijuana Retailer.

G. Recreational Marijuana Wholesaler.

H. Marijuana Research Facility.

I. Marijuana Testing Laboratory.

23.055 Off-Street Parking

A. Number of Spaces Required. The required number of parking spaces shall be as specified in Subchapter 73.

B. Parking Types Allowed.

1. Garage. A garage is allowed subject to the design and setback requirements of the zone.

2. Carport.

a. If an attached carport is proposed, the structure shall meet the setback and applicable design requirements for an attached garage.

b. If a detached carport is proposed, the structure shall meet the design and setbacks for detached garages, provided that the side yard setback shall be at least five (5) feet.

3. No Carport or Garage. Where a garage or carport is not proposed, two paved, 10 by 20-foot off-street parking spaces are required for each single-family dwelling or duplex unit.

C. Width of Paving. In no instance shall a paved portion of the front or side yard exceed more than 50 percent of the lot width.

23.060 Residential Design Standards

Design standards for residential uses in the Mixed-Density Residential Zone are presented in Subchapter 19.

23.065 Development Standards for Multiple-Family Development

A. Multiple-unit housing. Multiple-unit housing is allowed per the Site Design Review process within the Mixed Residential (MX) Zone. New multiple-unit developments shall comply with all of the following standards:

1. Common open space standard. Inclusive of required setback yards, a minimum of 15 percent of the site area shall be designated and permanently reserved as usable common open space in developments with more than 20 multiple-unit or attached single-unit dwellings as

specified by Subsection 23.010(B). The site area is defined as the lot or parcel on which the development is planned, after subtracting any required dedication of street right-of-way and other land for public purposes (e.g., public park or school grounds, etc.). Sensitive lands and historic buildings or landmarks open to the public and designated by the Comprehensive Plan may be counted toward meeting the common open space requirements.

2. Private open space standard. Private open space areas shall be required for ground-floor and upper-floor housing units based on all of the following standards:

    a. A minimum of 50 percent of all ground-floor housing units shall have front or rear patios or decks measuring at least 48 square feet. Ground-floor housing means the housing unit entrance (front or rear) is within 5 feet of the finished ground elevation (i.e., after grading and landscaping);
    b. A minimum of 50 percent of all upper-floor housing units shall have balconies or porches measuring at least 24 square feet. Upper-floor housing means housing units that are more than 5 feet above the finished grade; and
    c. Private open space areas shall be oriented toward common open space areas and away from adjacent single-unit residences, trash receptacles, parking and drives to the greatest extent practicable.

3. Exemptions. Exemptions to the common open space standard may be granted for the land area associated with the first 20 units of a larger project when the developments are within one-quarter mile (measured walking distance) of a public park; and there is a direct, accessible (i.e., Americans With Disabilities Act-compliant), and maintained pedestrian trail or sidewalk between the site and the park. An exemption shall be granted only when the nearby park provides active recreation areas such as play fields; children's play area, sports courts, walking/fitness course, or similar facilities.
4. Landscaping. All development is subject to the landscaping provisions in Subchapter 54. Recreation areas may be included as part of the required landscaping.
5. Screening. All exterior garbage collection areas, recycling areas, and mechanical equipment shall be screened to meet the standards of Section 54.010(C) of the Independence Development Code. Garbage collection areas, recycling areas and mechanical equipment shall be located away from the street.
6. Signs. Signs shall be subject to the provisions of Subchapter 58.

23.070 Reference to Additional Standards

Additional or alternative use and development standards may be found in the following chapters:

A.	Flood Damage Prevention	Subchapter 51
B.	Willamette Greenway Development District	Subchapter 52
C.	Buffering/Screening/Landscape/Ash Creek Setbacks	Subchapter 54
D.	Planned Unit Developments	Subchapter 60
E.	Manufactured Dwellings	Subchapter 61
F.	Home Occupations	Subchapter 72
G.	Parking	Subchapter 73
H.	Accessory Structures	Subchapter 74
I.	General Development Standards	Subchapter 75

SUBCHAPTER 30: ALLOWED USES IN COMMERCIAL ZONES

ALLOWED USES	ZONE	
COMMERCIAL USES	**MUPC[1]**	**DRZ**
A commercial activity involving retail sales and service and which is not listed as a conditional or prohibited use	P	P
A commercial activity involving personal or professional services and which is not listed as a conditional or prohibited use	P	P
Office	P	P
Hotel or Lodging Use	P	P
Bed and breakfast establishment, including Air BnB, VRBO, and other similar uses	P	
Recreational vehicle park	CU[2]	
Campground	CU[2]	
Vehicle Servicing/Repair	CU[2]	
Hospital	CU	CU
Veterinary clinic	CU	CU
Kennel	CU[2]	
Crematory	CU[2]	
Medical Marijuana Dispensary, subject to the special use limitations in the underlying zone	P	P
Recreational Marijuana Retailer, subject to the special use limitations in the underlying zone	P	P
Marijuana Research Facility, subject to the special use limitations in the underlying zone	P	P
Marijuana Testing Laboratory; subject to the special use limitations in the underlying zone	P	P
Transmitter station, towers, relay stations and similar facilities for electronic communications	CU	CU
MANUFACTURING/INDUSTRIAL USES	**MUPC[1]**	**DRZ**
Light industrial uses	P	
Freight forwarding facility	CU[2]	
Small scale manufacturing and production, including jewelry, candy, wine, beer, spirits, or other similar artisan products, less than 5,000 square feet, where at least 25% of the manufacturing area is dedicated to retail sales		P
PUBLIC/QUASI-PUBLIC USES	**MUPC[1]**	**DRZ**
Structure or facility necessary for the City or for a public utility to provide service within the City. Such structures shall include, but not be limited to: construction, operation, maintenance, or repair of electric service meters, lines, transformers, and poles; natural gas lines; telephone lines and poles; water and sewer lines; streets, pathways and	P	P

sidewalks including any project identified in the Transportation System Plan.		
Buildings and structures operated by a governmental agency or by a public utility and necessary for public service. Such facilities shall include but not be limited to fire stations, libraries, electrical substations, and water storage tanks. Such facilities shall not include commercial plants for the generating of electrical power	CU	CU
Church	CU	CU
Community or neighborhood club building, swimming pool, and other allied facilities owned and operated by a nonprofit community club for the improvement of the neighborhood or recreation of the members	CU	CU
Playground or park	P	P
Child Care Facility	P[3]	P[3]
School (elementary, junior high, senior high)	CU	CU
Trade or commercial school	CU	CU
Bus terminal or depot	CU	
Heliport	CU[2]	
RESIDENTIAL USES	**MUPC[1]**	**DRZ**
New single-family dwelling, with a floor area of not less than 1,000 square feet	P[4, 5, 6]	
Existing single-family dwelling, with a floor area of not less than 1,000 square feet	P[5, 6]	
Duplex	P[4, 5, 6]	
Attached single family residential dwellings (townhomes, rowhouses)	P[4, 5, 6]	P
Single room occupancy use, subject to the requirements in ORS 197A.430	P[4, 5, 6]	P
Live/work unit	P	P
Residential use on the second or third-story of a commercial building.	P	P
Triplex or Quadplex	P[4, 5, 6]	P
Multiple-family residential dwellings, all floors	P[7]	P
Residential structures subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making each unit affordable to a household with income less than or equal to 60 percent of the area median income	P	P
Residential home, as defined in this ordinance	P	P
Accessory uses to multiple-family or lodging uses such as clubhouses, open roof coverings, decks or patios for gatherings, outdoor pools or spas, or outdoor activity space.	P	P

Notes:

1. For the purposes of this code, the Mixed-Use Pedestrian Friendly Commercial (MUPC) zone includes both the standard Mixed-Use Pedestrian Friendly Commercial (MUPC) designation

and the Mixed-Use Pedestrian Friendly Commercial-Transitional (MUPC-T) designation, unless otherwise specifically noted.

2. This use is allowed within the MUPC Zone as a Conditional Use but is not allowed in the Downtown Overlay Zone.
3. This use is allowed so long as the activity is licensed through the State of Oregon.
4. Only permitted in the Mixed-Use Pedestrian Friendly Commercial-Transitional (MUPC-T) designation.
5. The accessory uses and structures allowed for residential uses in Subchapter 17 are allowed for residential uses in the MUPC Zone.
6. Single-family dwellings, duplexes, triplexes, quadplexes, single room occupancy uses and accessory structures for residential uses within the MUPC Zone are subject to the dimension requirements for the High-Density Residential (RH) zone found in Subchapter 18, and the Residential Design Standards in Subchapter 19.
7. Standalone apartment buildings are allowed within the MUPC zone in the Central Talmadge subarea, so long as the subject property does not directly front Monmouth Street and the property is set along a secondary road such as E Street, 16th or 17th Street.

SUBCHAPTER 33: MIXED USE PEDESTRIAN FRIENDLY COMMERCIAL (MUPC) ZONE & DOWNTOWN OVERLAY ZONE

33.005 Purpose

The purpose of the Mixed Use Pedestrian Friendly Commercial (MUPC) zone is to:

- Allow a mixture of complimentary land uses that may include retail, offices, commercial services, housing, civic uses, to create economic and social vitality;

- Develop commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians;

- Encourage pedestrian orientation while remaining accessible to automobiles within commercial areas located outside of the downtown area;

- Expand and strengthen the downtown commercial core while maintaining and enhancing the historic character of Independence;

- Encourage and promote the redevelopment of downtown, including housing, as a vibrant and successful mixed-use district;

- Emphasize bicycle and pedestrian connections along natural amenities, such as Ash Creek and the Willamette River, as a way of moving residents and visitors across town and improving connections to downtown;

- Create a strong link from the commercial core along Main Street to the amphitheater and the recreational land uses along the river and recognize key intersections as gateways and nodes of commercial activity;

- Maintain and improve natural areas as resources where possible and target environmental initiatives such as recycling programs and green building techniques; and

- Support the continued growth of local and living wage jobs and develop tools to market opportunities.

For the purposes of this code, the Mixed-Use Pedestrian Friendly Commercial (MUPC) zone includes both the standard Mixed-Use Pedestrian Friendly Commercial (MUPC) designation and the Mixed-Use Pedestrian Friendly Commercial-Transitional (MUPC-T) designation, unless otherwise specifically noted.

33.010 Downtown Overlay Zone

As used in this chapter, the Downtown Overlay Zone is defined as those properties zoned Mixed Use Pedestrian Friendly Commercial (MUPC) within the area described as follows:

-The area bounded on the north by A Street, bounded on the east by the Willamette River, bounded on the south by G Street and bounded on the west by Third Street, excluding Tax Lot No. 8428AC 00100 & Tax Lot No. 8428AB 02600 and as identified within the Downtown Overlay Zone on the Independence Zoning Map.

33.015 Permitted and Conditional Uses

Allowed permitted and conditional uses within the MUPC Zone are presented in Subchapter 30. Uses not listed in Subchapter 30 or uses that are listed in 33.018 are considered to be prohibited, except as provided in Section 10.050.

33.018 Prohibited Uses

Within the MUPC Zone and the Downtown Overlay Zone, the following uses shall not be permitted (see definitions found in Subchapter 13):

PROHIBITED USES	MUPC	Downtown Overlay
Drive-through Facility		X
Entertainment/Major Event		X
Self-Service Storage	X	X
Vehicle Servicing/Repair		X
Wholesale Retail	X	X
Heavy Industrial	X	X
Light Industrial		X
Manufacturing and Production	X	X
Warehouse and Freight	X	X
Waste-Related	X	X
Agriculture	X	X
Mining	X	X
Commercial Parking	X	X
Commercial Outdoor Recreation	X	X
Railroad Yards	X	X
Detention Facilities	X	X
Medical Marijuana Grow Site	X	X
Medical Marijuana Processing Site	X	X
Recreational Marijuana Producer	X	X
Recreational Marijuana Processor	X	X
Recreational Marijuana Wholesaler	X	X

33.021 Special Use Limitations for Marijuana Facilities

A. At the time a Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory locates in the MUPC Zone, the Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory may not be located:

1. Within 1,000 Feet of an Elementary or Secondary School; or

2. Within 250 Feet of a Public Library, Public Park, Public Playground, Public Recreational Facility, or Public Athletic Field.

B. A Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory must possess a valid business registration in accordance with Chapter 8 of the Independence Municipal Code, Article XII, Marijuana Facilities.

C. A Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory may not include a Drive-Through Facility.

D. A Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory located in the MUPC Zone must be located in a Building, as that term is defined in the Uniform Building Code.

33.030 Commercial Development Standards

A. Purpose and Applicability

The Commercial Development Standards include required 03. The standards are intended to encourage a similar pedestrian orientation as that found downtown while remaining accessible to automobiles.

All new construction and all remodels costing more than 60 percent of the existing building's assessed value, except single-family dwellings, are required to meet the Commercial Development Standards. Single-family dwellings shall comply with the standards for residential development found in Subchapter 20.

Where a proposal is for a change of use, alteration or addition to an existing development, the standards of this section apply only to the portion being altered or added. If the applicant can demonstrate that the implementation of the standard would be impractical due to the limited size and location of the improvement, the Community Development Director may waive any of the standards which are demonstrated to be impractical.

B. Standards

The Commercial Development Standards include three (3) main topics. The topics reflect the manner in which buildings are designed and developed.

Topic 1, “SITE” specifies the key development standards that impact the potential use and dimensions of the site.

Topic 2, “HEIGHT/BUILDING MASSING”, specifies the development standards that impact the potential height and building massing.

Topic 3, “ARCHITECTURAL FEATURES”, specifies development standards that require architectural details to the building.
Where a different standard applies to only Main Street within the Downtown Overlay, it will be indicated.

For further information, see Appendix 1: Commercial Development Standards, City of Independence (2009). Note: Information contained in Appendix 1 is for information purposes only. When a conflict exists between Appendix 1 and the Independence Development Code, standards contained in the Independence Development Code shall apply.

TOPIC 1: SITE

A. <u>Standards for Drive-Through Facilities</u>

1. Drive-in and drive-through facilities are prohibited within the Downtown Overlay.

2. In the base Mixed-Use Pedestrian Commercial Zone (MUPC), drive-in and drive-through facilities shall meet the following standards:

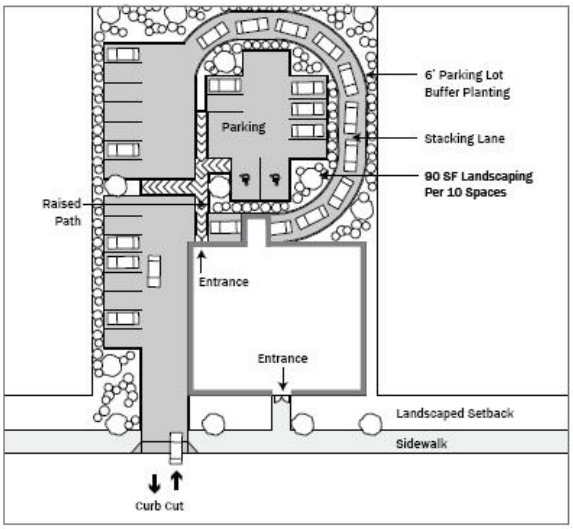
a. Stacking areas may not be located between the building and the street.

b. Stacking areas must be a minimum of 150 feet long for a single lane and 80 feet long for multiple stacking lanes.

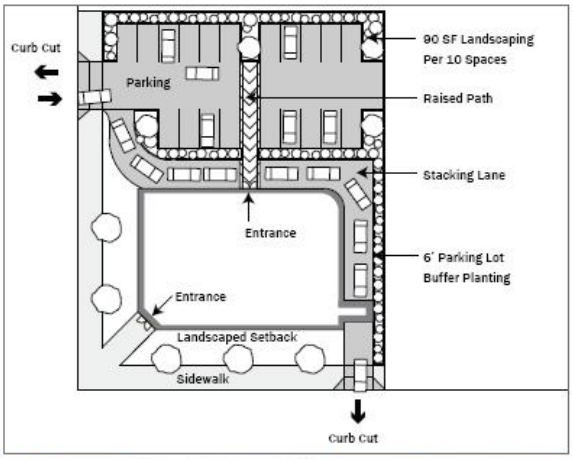
c. The stacking area may not interfere with parking and vehicular circulation.

d. Stacking lanes must be clearly identified with striping, signage, and changes in materials to avoid conflicts between automobiles and pedestrians.

[1]



[2]



[3]



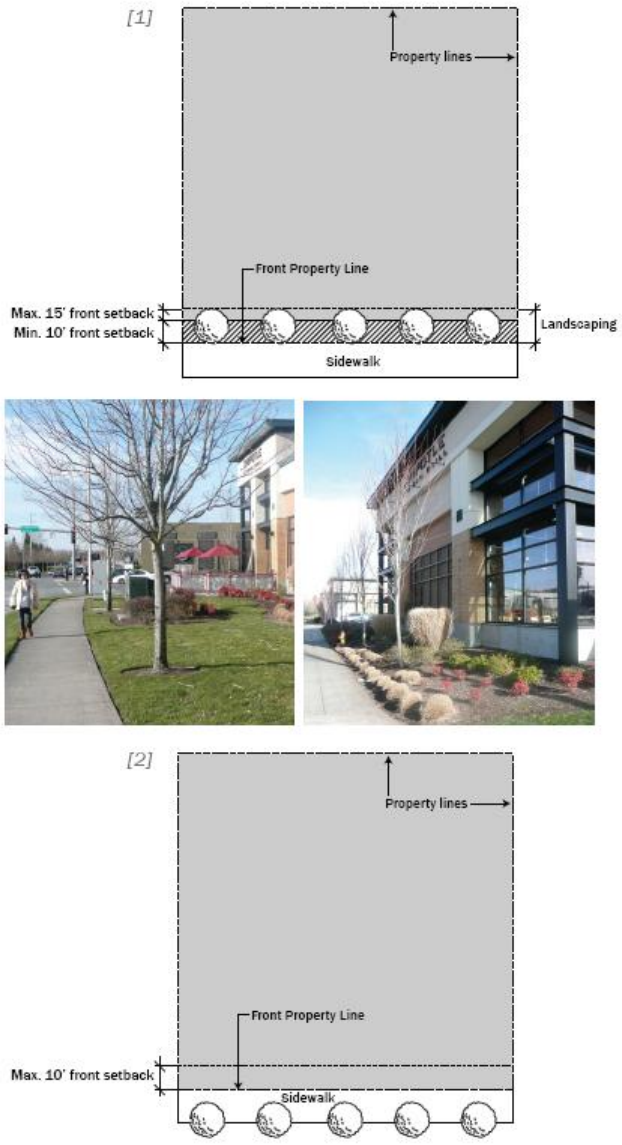
Drive Through Facilities. *The impact of drive-ins and drive-throughs can be mitigated through [1] placing building at the front build-to line and separating stacking lanes and parking or [2] orienting the building to the corner and [3] providing entrances oriented to pedestrians.*

B. Yards

1. In the Mixed-Use Pedestrian Commercial Zone (MUPC), the minimum depth of a front yard setback shall be 10 feet. The maximum depth of a front yard setback shall be 15 feet.

2. Setbacks in the MUPC Zone shall be landscaped with a combination of ground cover, shrubs, and trees that are approved by the City of Independence. See the Site Landscaping Standard in Section 33.030.E below for more detail on approved plantings.

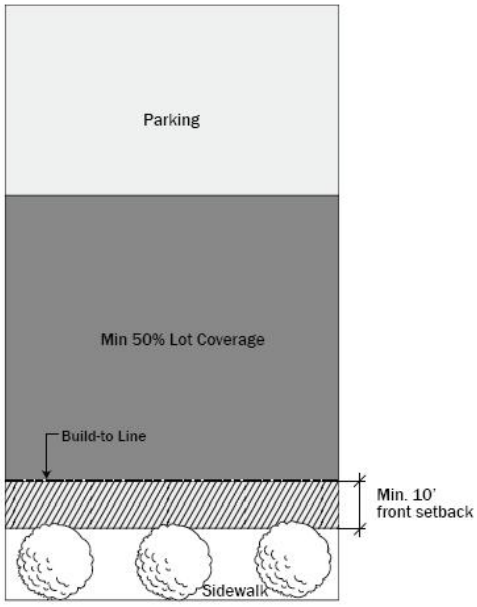
3. In the Downtown Overlay along Main Street only, the maximum depth of a front yard setback shall be 0 feet. In the remainder of the Downtown Overlay, the minimum depth of a front yard setback shall be 0 feet and the maximum depth shall be 10 feet.



Yards. *[1] Larger front setbacks in the MUPC Zone soften the edge by allowing for more landscaping while still creating a more built-up edge, especially along Monmouth Street, that provides an attractive pedestrian environment [2] In the Downtown Overlay, lower maximum setbacks encourage a more urban, built-up condition that translates into a more uninterrupted pedestrian environment.*

C. Lot Coverage

In the Downtown Overlay portion of the Mixed-Use Pedestrian Commercial Zone (MUPC), the minimum lot coverage for buildings shall be 50%. There is no minimum or maximum lot coverage requirement for MUPC-zoned properties outside of the Downtown Overlay District.





[1]

Lot Coverage. *[1] A minimum lot coverage promotes a more built-up urban character that is associated with pedestrian-oriented commercial districts while still providing space for on-site parking.*

D. Build-to Line

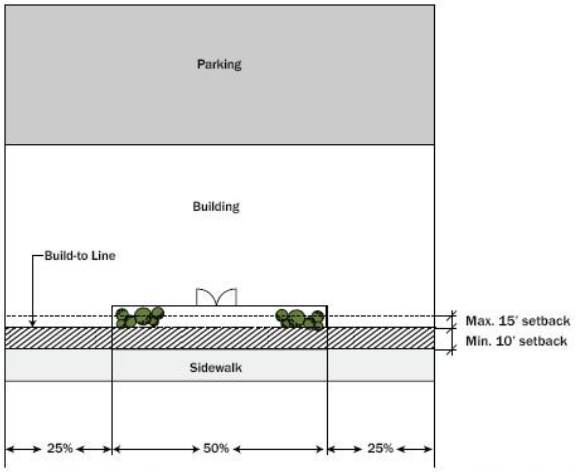
1. In the Mixed-Use Pedestrian Commercial Zone (MUPC), 50% of the overall development length of a building shall be placed along a build-to-line located at the front edge of the setback. This standard applies to multiple buildings on a single lot.

2. In the Downtown Overlay along Main Street only, 100% of the overall development length shall be placed along the build-to-line located at the front property line. The remainder of the Downtown Overlay shall follow the base MUPC build-to-line requirements.

E. Site Landscaping

Site landscaping shall be provided as specified in Subchapter 54.

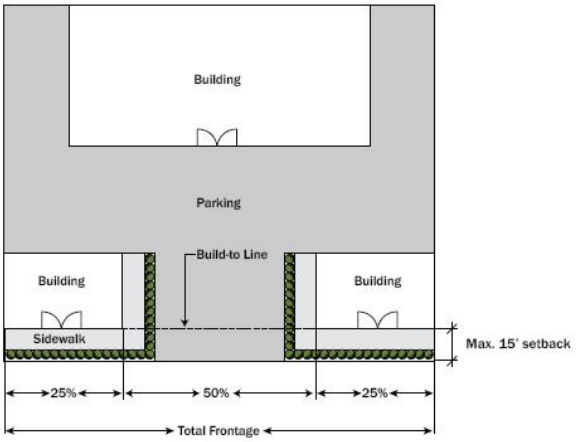
[1]



[2]



[3]



Build-to Line. *[1] Placing 50% of the total development length of the building at the front edge of the property creates a contiguous, cohesive pedestrian environment [2] 100% of the development length must be brought to the front edge of the property along Main Street in order to promote development that is of a similar scale and character as the existing context [3] If more than one pad is proposed, pads shall be located at the front corners of the lot in order to anchor the edges of the property.*

F. Parking and Access

1. Parking shall be prohibited between the front of the building and the street. Except along Main Street, parking may be allowed on the side of the building provided that:

   a. The parking is set back a minimum of ten (10) feet and a maximum of 15 feet from the front property line, corresponding with the front setback. In no instance shall parking extend in front of the building setback.

   b. The parking area does not exceed 50% of the total frontage of the site.

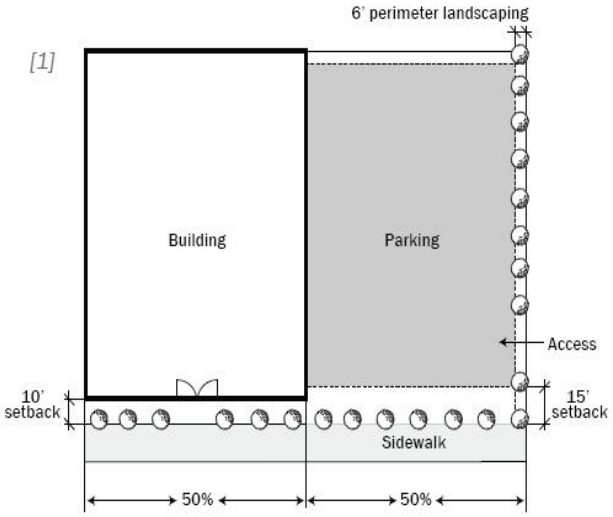
2. Off-street parking areas shall be developed in accordance with the requirements found in Subchapter 73.

3. Off-street parking areas must be landscaped per the Parking Lot Landscaping Standards found in IDC Section 54.205(B).

4. Internal pedestrian connections shall be provided in parking lots with greater than ten (10) spaces per the requirements of IDC 73.020(N).

5. Heavy trucks shall be allowed along Main Street and Monmouth Street provided that they service the business from the alley or side street where possible.

G. Section Left Blank (After Ordinance 1620)



[2]



Parking and Access. *Parking is prohibited between the front of the building and the street in order to create a more cohesive and continuous pedestrian experience [1] Parking may be located to the side if it does not exceed 50% of the total site frontage [2] Clearly marked, attractive, safe pedestrian paths through parking lots should be provided to reduce conflicts with automobiles.*

TOPIC 2: HEIGHT/BUILDING MASSING

H. Height

1. In the Mixed-Use Pedestrian Commercial Zone (MUPC), the maximum height, when measured from the average of the streetside elevation, is:

a. 40 feet in the Downtown Overlay Zone and along the two blocks on the east side of Main Street from G Street to I Street.
b. 45 feet outside the areas identified in (B)(1)(a).

2. Outside of the Downtown Overlay Zone and the Small Areas of Main Street identified in (B)(1)(a), height bonuses may be applied to extend the height of a building to a maximum of 55 feet (measured to the top of the parapet or the midpoint of the gable) if any one of the following amenities are provided in a development:

a. Outdoor recreation facilities including things like basketball courts, tennis courts, swimming pools

b. Common open or green spaces for community gathering

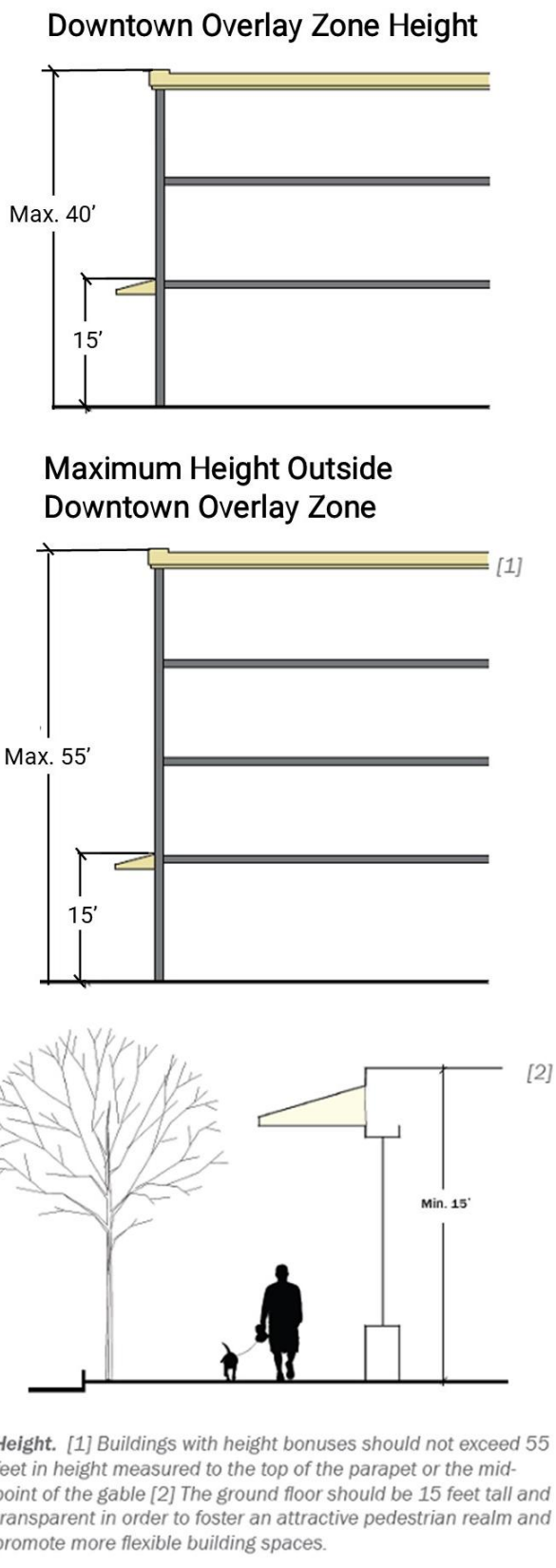
c. Children's play areas with play structures

d. Three-bedroom units

e. Solar Panels for solar water heating and electricity.

3. Buildings in the MUPC zone shall have a minimum ground floor to ceiling height of 15 feet.

4. There shall be a minimum of two (2) stories in the Downtown Overlay.



Height. *[1] Buildings with height bonuses should not exceed 55 feet in height measured to the top of the parapet or the mid-point of the gable [2] The ground floor should be 15 feet tall and transparent in order to foster an attractive pedestrian realm and promote more flexible building spaces.*

I. Length

Buildings that have a facade length that exceeds 100 feet must have the appearance of multiple attached buildings.

J. Main Entrance/Front Door

A direct pedestrian connection shall be provided from the main entrance on the front facade of the building to the sidewalk.

[1]



[2]





[3]



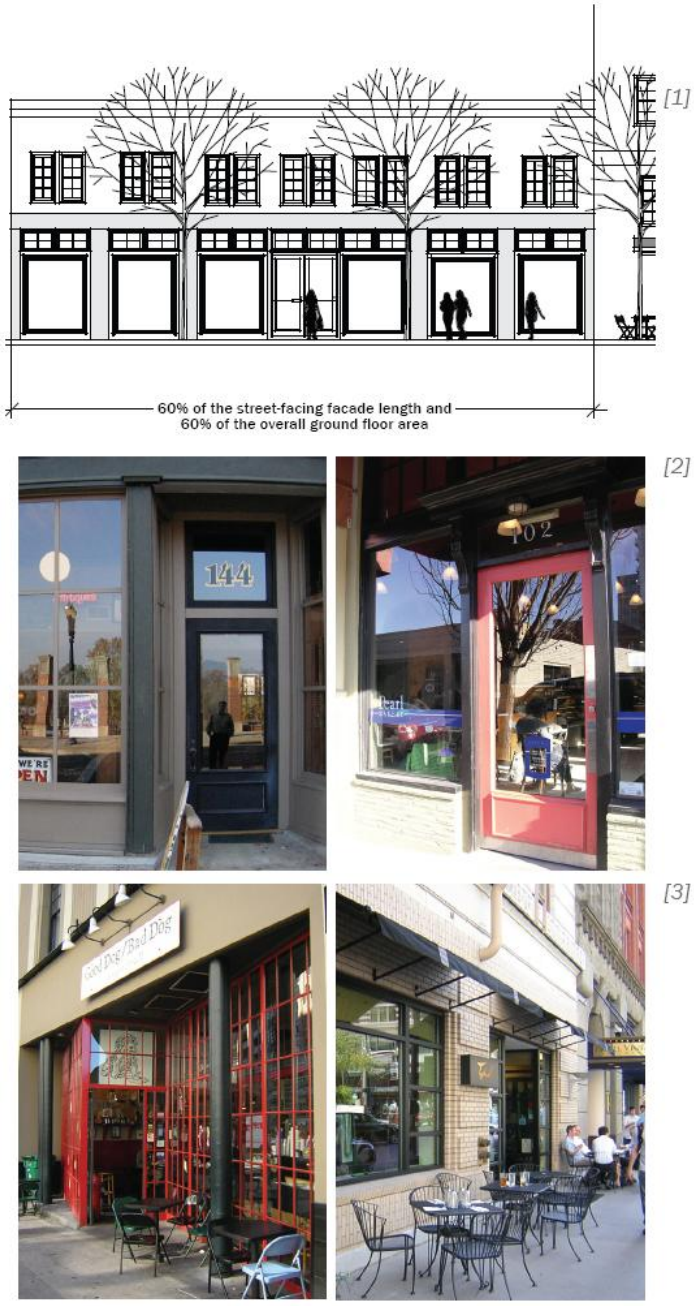
Main Entrance/Front Door. *[1] Buildings should have a direct pedestrian connection from the front door of the building to the sidewalk [2] Storefront entries can be designed with overhangs, canopies, porticos, clerestory windows, or large entry doors [3] Building entries can be oriented to the corner and chamfered to create visual interest and places for people to gather.*

K. Ground Floor Windows

1. Transparent windows shall be required along a minimum of 60% of the length of the ground-level street-facing façade and 60% of the overall ground floor street-facing wall area, defined as the first floor of a building that is used and directly accessible from the exterior finished grade.

2. On side facades facing an alleyway or side street, facades shall provide windows along 50% of the alley length or side street facing facade and 25% of the overall facade. The back of the building has no windows requirement.

3. Doors facing the street shall consist of a minimum of 40% transparent glazing.



Ground-Floor Windows. *[1] Using transparent windows along a minimum of 60% of the length of the ground-level street-facing facade and 60% of the overall ground-floor area provides transparency so that [2] pedestrians can see inside the building [3] Ground floor windows that incorporate vertical and horizontal elements help the ground-floor of the building relate to the scale of a pedestrian.*

L. Exterior Display

The following exterior activities shall be allowed in the proposed Mixed-Use Pedestrian Commercial Zone (MUPC) Zone, provided that they leave a five (5) foot clear pedestrian path for unrestricted movement and are an extension of the interior use:

1. Outdoor eating

2. Outdoor produce markets and flower stands

3. Temporary displays of merchandise or wares (limited in duration to one week).

[1]





[2]



[3]





Exterior Display. *The exterior display of merchandise and materials is prohibited except when it adds to the intrigue of the public realm without detracting from the overall character of the district by creating a cluttered environment. The following uses are permitted [1] outdoor eating [2] outdoor produce markets and flower stands [3] temporary displays of merchandise or wares.*

TOPIC 3: ARCHITECTURAL FEATURES

M. Roof Forms

1. For flat roofed buildings:

   a. Parapets shall be a minimum of three (3) feet in height.

   b. Cornices shall meet the following requirements:

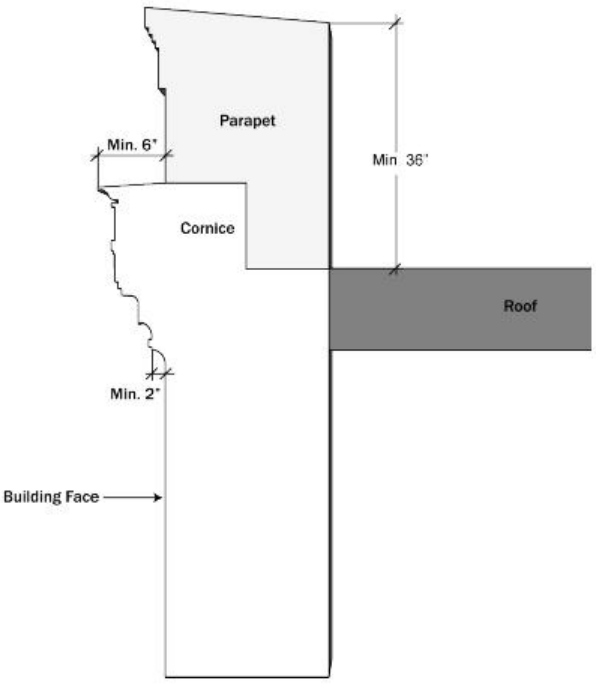
      i. The top of the cornice is a minimum of six (6) inches from the face of the building and the base of the cornice is a minimum of two (2) inches from the face of the building

      ii. The total height of the cornice on buildings 15 feet or less is a minimum of 12 inches, on buildings between 15 and 30 feet is a minimum of 18 inches, and on buildings taller than 30 feet is a minimum of 24 inches.

2. Pitched roofed buildings shall follow the Residential Design Standards Roof Forms Standard found in Subchapter 22.



[2]



[1]

Roof Forms. *[1] Roof forms should distinguish buildings in commercial districts [2] Cornices should have a top that is a minimum of 6 inches and a base that is a minimum of 2 inches from the face of the building.*

N. Bicycle Parking

1. Bicycle parking (racks) shall be provided within 50 feet of the main entry of a building.

2. Parking shall be provided at a minimum rate of two (2) spaces per business.

3. Bicycle parking shall be provided in accordance with Subchapter 73.

[1]





[2]



Bicycle Parking. *Attractive bicycle parking facilities promote alternative transportation [1] Short-term bicycle parking can be a design feature within a district [2] Covered parking allows year round use.*

O. Building and Parking Lot Lighting

1. Colored light bulbs and internally lit awnings or canopies shall be prohibited for buildings and within parking lots, except for temporary holiday displays.

2. The following standards shall apply to lighting on buildings and within parking lots:

a. Building lighting shall be integrated with the architecture. If it is applied to the facade, goose neck fixtures or wall sconces are preferred.

b. Maintain the following minimum to maximum ratios:

i. Downtown Overlay Streets: 3 to 1

ii. Residential Streets: 6 to 1

iii. Residential Walkways/Rural Areas: 10 to1

Note: The maximum to minimum ratio measures how light is perceived in relation to its surrounding. A smaller ratio (e.g. 3 to 1) suggests a more even distribution of light; whereas a larger ratio suggests a less even distribution of light).

[1]



[2]



Building and Parking Lot Lighting. *Building lighting should be in the form of [1] goose neck fixtures or sconces [2] Outdoor lighting, including parking lot, public street, and pedestrian lighting, should allow a maximum of 5% of the lamp lumens above the horizontal.*

c. Parking lot lighting shall emit on average 0.6 to 0.8 foot candles and shall not exceed an average height of 30 feet.

d. Pedestrian lighting shall not emit more than 1.1 foot candles and shall not exceed an average height of 20 feet.

e. Interior display windows shall be designed to be illuminated in evening hours, with provisions for reduced illumination late in the evening.

f. Outdoor lighting, including parking lot lighting and public street and pedestrian lighting, shall allow a maximum of 5% of the lamp lumens above the horizontal.

33.035 Additional Development Standards

In addition to the Commercial Development Standards described in Section 33.030 above, all developments in the MUPC Zone shall comply with the following specific standards:

A. Off-Street Parking. Off-street parking shall be as specified in Subchapter 73.

B. Signs. Signs shall be subject to the provisions of Subchapter 58.

C. Landscaping. All development is subject to the landscaping provisions in Subchapter 54.

D. Subdivisions and Partitions. All subdivisions and partitions shall be reviewed in accordance with the provisions of Subchapter 90.

E. Site Design Review. All new development and expansion of an existing structure or use in the MUPC Zone shall be subject to the Site Design Review procedures of Subchapter 80.

F. Downtown Overlay Design Standards and Guidelines Review. Development within the Downtown Overlay shall be subject to the Downtown Overlay Design Standards and Guidelines review procedures set forth in Section 33.040.

G. Stormwater Facilities. All stormwater facilities shall comply with the requirements of the Independence Public Works Design Standards.

H. Access. Access points to property from a street shall be located to minimize traffic congestion, and maximum effort shall be made to avoid directing traffic into residential areas. Existing access roads and access points shall be used to the maximum extent possible to serve the greatest number of users. All access roads

and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

33.040 Downtown Overlay Design Standards and Guidelines

A. Purpose. In an effort to protect and enhance the downtown core area of Independence, the City has adopted a special set of design standards and guidelines. The Downtown Overlay Design Standards and Guidelines shall apply only to properties that are zoned MUPC in the Downtown Overlay Zone.

The design standards and guidelines are intended to:

- Provide a structure to explain to developers, property owners, architects, planners, elected officials, and citizens what types of projects comply with the community's vision for a vibrant and active downtown.

- Ensure that future development is consistent with the downtown core's existing pedestrian-oriented scale of buildings.

- Strengthen the downtown as the heart of the community, and as the place for people and business.

- Enhance the physical appearance of downtown through high-quality design.

- Maintain and enhance the historic character of Independence.

For further information, see Appendix 2: Design Standards and Guidelines, City of Independence (2009). Note: Information contained in Appendix 2 is for information purposes only. When a conflict exists between Appendix 2 and the Independence Development Code, standards contained in the Independence Development Code shall apply.

B. Applicability. All new construction and all remodels costing more than 60 percent of the existing building’s assessed value, except single-family dwellings, are required to meet the Downtown Overlay Design Standards or Guidelines in addition to, the commercial development standards and additional development standards found in this subchapter.

C. Design Standards and Guidelines. The design standards and guidelines help guide the development and redevelopment of properties within the Downtown Overlay zone. They are intended to provide a framework for how Downtown Independence should look, function and feel.

The design standards and guidelines consist of two primary elements:

- Intent Statement/Design Guideline: Presents the big idea or goal to be accomplished through the standard (ex. “Create a streetscape at the ground floor that is active and inviting”)

Approach(es): Lays out the methods which applicants can use to meet the Intent Statement (ex. “Divide the ground floor into architectural bays”).

D. Application Process. Planning staff or the Planning Commission (as described below) shall approve, approve with conditions, or deny an application based upon compliance with the design standards or guidelines. Approval shall be obtained from the review authority prior to the issuance of a building permit for all non-exempt development. Non-exempt development in the Downtown Overlay zone has two tracks for obtaining development permits.

1. Track 1 - Administrative Review of Compliance with Design Standards. Under the Track One process, the applicant is provided with a "menu" of clear and objective approaches that they can chose in order to meet the design standards and guidelines intent statements. A Track One application is reviewed administratively by City of Independence Planning Staff as a Type 1 Action.

In many cases, the same approaches are presented as a means to achieving different design standards. In the event that a specific approach has already been used to meet a previous design standard, the applicant is required to choose an alternative approach for another design standard or another requirement within the design standard. The applicant is required to meet all of the design standards.

2. Track 2 – Discretionary Review of Compliance with Design Guidelines. If an applicant chooses not to respond to the design standards and instead proposes a more creative response to meeting the intent statements, they follow a Track Two process. The intent statements become the criteria for determining whether or not the objective of the design standard is being accomplished. The applicant is required to explain via a narrative and basic drawing set (site plan, building elevations and materials board) how the project meets the design guideline/intent statements.

Applicants who opt for the Track Two approach are required to meet all of the intent statements/design guidelines i.e. they must go through design review, a discretionary process, to explain how their project will meet all the design guidelines. The project shall be reviewed by the Planning Commission for compliance with the design standards and guidelines as a Type II action.

E. Approval Process. Under the Track One process, the City of Independence Planning Staff shall use the standards in this section to ensure compliance with the development and design standards. Under the Track Two process, the City of Independence Planning Commission shall use the intent statements in this section to ensure compliance with the development standards and design guidelines.

F. Design Standards and Guidelines.

1. Building Divisions

a. Intent Statement/ Design Guideline.

Build upon Independence's historic downtown architecture by creating an attractive and unified tripartite façade that celebrates the ground floor and the middle and top of the building.

b. Approaches

Create street-facing building facades that articulate a clear and distinct base, middle, and top to break up the vertical massing of the building. Utilize banding and changes in color and/or material to emphasize horizontal breaks in the building plane. This standard applies to buildings of all heights and number of stories.

There are three required approaches to meet this standard.

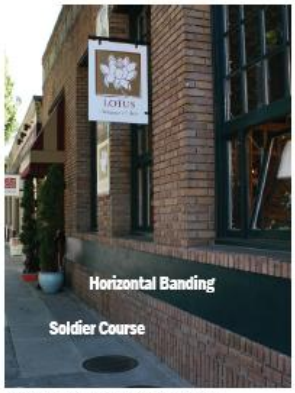
i. Ground Floor - Base: The base of the ground floor extends from the top of the finished grade or sidewalk to the bottom of the window sill. In order to create a discernible base that anchors the building, applicants shall include at least one of the following elements in the base of the ground floor:

Tripartite Facade



The bottom, middle, and top are distinct and readable and help to break up the building's mass.

Base



Brick soldier course defines bottom of base of ground floor and horizontal banding of a different color defines top of base.



Projected window sills 12 to 24 inches high and bulkhead using distinct materials define bottom of base and awnings define top of base.



Large storefront windows, awnings, and a tall ground floor height enhance the character of the ground floor. Plinths, a projected soldier course, and the bulkhead articulate the base.

- Projected window sills (12 - 24 inches above grade)
- Masonry or finished concrete plinth
- Bulkhead constructed of concrete, brick, or stone

Middle



Vertically oriented windows signaling a change in use, horizontal bands, signage bands, balconies, awnings, and a brick solider course distinguish the middle of the building from the ground floor.



Change in color and material, vertically oriented windows signaling a change in use, and balconies distinguish the middle of the building.



Vertically oriented windows signalling a change in use and horizontal banding distinguish the middle of the building.

<u>Ground Floor - Middle</u>: The middle of the ground floor is typically compromised of a storefront window. The middle section of the ground floor should contain at least one of the following elements:

- Integrated horizontal and vertical window mullions
- Window planter box (minimum of two)
- Decorative building light fixture or wall sconce.

<u>Ground Floor - Top</u>: The top of the ground floor façade is the area between the storefront and the upper stories of the building. The top of the ground floor should contain at least one of the following elements:

- A marquee or projecting blade sign (8'-12' above grade)
- Sign frieze
- Storefront awning or canopy (8'-12' above grade)
- Storefront cornice or belt course

- Transom Window

ii. Middle: The middle of the building often contains smaller, vertically-oriented windows to reflect changes in use on upper floors. To distinguish the middle of the building from the top and base, applicants should incorporate two of the following types of elements:

- Vertically oriented windows
- Changes in color
- Stepbacks
- Horizontal band(s)/signage bands
- Bay windows
- Balconies
- Brick reveal/soldier course (vertically oriented brick)

Note: Horizontal bands should be a minimum of 8 inches high (the length of a standard brick) and can be formed by a change in materials, color, brick orientation, or by projecting materials from the face of the building.

Top



A detailed cornice and projected parapet are cap elements.



A gabled roof establishes a distinct profile and caps the facade.



A gable roof with a hip emphasizes the top of the building.



A green roof terminates the top of the building and provides visual interest.

iii. Top: The top of the building shall include a "cap" element at the upper most portion of the facade in order to visually terminate the building face and emphasize a distinct profile.

To create visual interest at the top of the building, applicants shall incorporate one of the following elements:

- Detailed cornice or projected parapet
- Hipped or gabled roof
- Roof top gardens that consist of plant materials visible from the sidewalk and street

Note: Roof gardens represent a unique and beneficial approach to treating the top of the building. Beyond their aesthetic benefits, rooftop gardens help manage stormwater run-off that would otherwise go into storm sewers, aquifers, and streams. In addition, rooftop gardens help mitigate the heat island effect by reducing the temperature and, therefore, providing energy savings and air quality. Green roofs can also provide a food source.

2. Pedestrian Engagement

a. Intent Statement/ Design Guideline

Create a streetscape at the ground floor level that is active and inviting to passing pedestrians, bicyclists, and motorists by incorporating vertical and horizontal divisions, cohesive and repetitive architectural elements, and welcoming entries into the street-facing facade that are understandable at the human scale.

b. Approaches

Architectural bays are the larger "building blocks" of a pedestrian-oriented ground floor. They create a sense of rhythm and break down a large building into pieces. Repetitive architectural elements within these bays further create a sense of rhythm and offer components that can be understood at a human scale. When paired with prominent entries, these elements translate into an inviting storefront presence along the sidewalk that is easily accessible and reflects historic precedents of gracious retail spaces. As pedestrians pass, there are many parts of the building upon which the eye can linger that help establish a sense of scale.

There are three required approaches to meet this standard:

i. Divide the ground floor of commercial storefronts into, where possible, an odd number of distinct architectural bays that are a

Divide Ground Floor



Ground floor divided into an odd number of distinct architectural bays that are 30 feet wide and defined through engaged columns. Transom windows and projected window sills are repeated in each distinct architectural bay.

Foster Pedestrian Interaction



Large windows, clerestory and transom windows, columns, and pedestrian oriented signage.



Large glass entry door, large windows, transom windows, columns, and pedestrian oriented signage.



Decorative lighting, canopies, and a storefront frieze.



Large windows, recessed entry, pedestrian oriented signage, and decorative lighting.

maximum of 30 feet wide measured from the center line of the columns. An odd number of bays will provide more symmetry and emphasize the entry. For the purposes of this standard, an architectural bay is defined as the zone between the outside edges of an engaged column, pilaster, post, or vertical wall area.



Large glass entry door, transom windows, glass windows flanking the entry door, awnings, plinths and columns, and decorative lighting. Benches provide places for passing pedestrians to pause and rest.

ii. Provide a minimum of three of the following architectural and decorative elements that are to be repeated within each distinct architectural bay:



Decorative lighting, blade sign, transom windows, and pedestrian oriented signage.



Decorative lighting, transom windows, columns, and medallions.

- Clerestory or transom windows
- Overhangs (canopies, awnings)
- Plinths or columns (minimum of a pair)
- Decorative lighting (minimum of a pair)
- Signage (awning, blade, wall or window)
- Canopies or overhangs
- Storefront frieze, horizontal sign band, or a belt course above transom window on a mezzanine level
- Window plant box (minimum of one per window)
- Medallion (minimum of a pair).

Note: The depth of all canopies and awnings shall be a minimum of 5 feet measured from either the face of the column or the street-facing elevation.

Note: Where feasible, building faces along an alley should be enhanced with windows and lighting to increase pedestrian safety and interest.

Note: The use of mirrored or tinted glass is prohibited.

iii. Create a prominent entry by incorporating three or more of the following elements:

- Large glass entry doors
- Clerestory or transom windows
- Glass windows that flank the door
- Recessed entry bays
- Signage (awning, blade, wall or window)
- Decorative lighting (minimum of a pair)
- Pavers and colors that mark entry to the building
- Awnings or canopies

Note: Awning and blade signs shall be a minimum of 8' 6" off the ground and not exceed 12% of the building elevation area, with a maximum sign face area of 60 square feet. Wall signs shall not exceed 8% of the building elevation on the primary frontage, with a maximum sign face of 60 square feet. Window signs shall not exceed 15% of total window area.

Create a Prominent Entry



Large glass entry doors, transom windows, recessed entry bay, and pavers and colors that mark entry.



A recessed entry bay, large glass entry door, glass windows flanking the door, and columns.



Decorative lighting, overhang, transom window, recessed entry bay, and large glass entry doors.



Large glass entry door, transom windows, recessed entry bay, signage, and decorative lighting.

3. Corner Reinforcement

a. Intent Statement/ Design Guideline

Emphasize the intersection of streets to provide dynamic public spaces where people's paths intersect, articulate gateways into and within a district, provide a means of way finding, and reflect historical structures of import in the downtown.

b. Approaches

Street corners where two streets intersect and paths meet should be designed as a node of social and economic activity. This should be achieved through a distinctive architectural treatment. Incorporating strong architectural elements at street corners not only creates a more visually interesting built environment but also helps pedestrians read and understand city blocks by creating memorable design elements at the corner of each block.

Chose one or more of the following architectural and site planning strategies to emphasize the corner:

- Locate the primary entry to the building at the corner of the building or within 25 feet of the corner of the building.

- Incorporate prominent architectural elements, such as increased height or massing, a cupola, a turret, or a pitched roof, at the corner of the building or within 25 feet of the corner of the building

Emphasize the Corner



Primary entry within 25 feet of corner and prominent turret articulate gateway into downtown and provide a means of way finding.



Primary entry located on the corner creates public meeting space.



Primary entry on the corner and increased height provide public meeting space and reflects historical structures.



Primary entry on the corner and increased height provides public meeting space and reflects historical structures.



Primary entry located on the corner, chamfered corner, and street furnishings provide public gathering space.



Primary entry located within 25 feet of corner, increased height at the corner and overhangs, and projecting blade sign provide a means of way finding.

- Chamfer the corner of the building (i.e. cut a corner at a 45 degree angle at a minimum depth of 10 feet from the corner) and incorporate a combination of paving materials that are not concrete, street furnishings, and plantings.



Primary entry located within 25 feet of corner, increased height at the corner with a pitched roof, special pavings and plantings provide public gathering space, articulate a gateway into the district, and provide a means of way finding.

4. Transitions from the Public Realm

a. Intent Statement/Design Guideline

Design safe and friendly semi-public transitions between the public and private realms (between the sidewalk and building) that allow people to gather informally and interact with pedestrians in a more intimate space.

b. Approaches

To reinforce the pedestrian realm and encourage people to gather, applicants shall implement one of the following:

- Courtyards: incorporate a small courtyard into the design of the street-facing facade. Further embellish the space by incorporating exterior lighting, paving, benches, and planter boxes.

- Recessed zone: create a small, covered transition zone between the sidewalk and the front door. Define this space with lighting, paving, and storefront windows and doors.

- Corner of buildings: create meeting places at the corner of the building by chamfering the corner of the building. Define the space with special paving and lighting.

- Arcade/porch: Set the front door and the primary street-facing facade a minimum of 5 feet clear behind an arcade.

Semi-Public Transitions



Courtyard defined by fence and line of trees with windows fronting.



Courtyard with exterior lighting, fence, and planter boxes.



Courtyard defined within building facade with fences and planter boxes.



Recessed entry defined by special lighting and storefront windows and doors.



Recessed entry on corner provides meeting point defined by signage and special lighting.



Arcade provides opportunity for gathering in an intimate space.

Note: When approaches above are used in buildings along Main Street, their use shall not prevent an applicant from meeting the Build-to-Line Standard requiring 100% of the building being placed along the front-edge of the property line.

Note: Where possible, windows should be incorporated into all walls that face courtyards. These windows should be large enough to encourage interaction between inside and outside.

Note: Arcades are typically located on the front property line. Other architecture and landscape architecture elements that allow people to gather include pergolas, moveable planters, and wrought iron or other types of transparent decorative metal fences. For arcades, spacing between detached columns or posts forming the arcade along buildings less than 50 feet in length should be a minimum of 5 feet apart and a maximum of 10 feet apart. Columns for buildings greater than 50 feet in length should be spaced a minimum of 10 feet apart and a maximum of 20 feet apart.

5. Materials

a. Intent Statement/ Design Guideline

Promote the use of traditional and contemporary architectural materials that provide a sense of permanence and reflect the history of the City without replicating traditional building practices.

b. Approaches

Building materials are essential to the overall character and quality of development. Materials are especially important to the development of an inviting ground floor, given that this is where materials can be most easily experienced at the scale of pedestrians. How building materials are used adds texture and richness to the pedestrian experience.

Changes in material should ideally occur where there is a break in plane and should be used to break up vertical mass (see Tripartite Facades).

The applicant shall incorporate one of the following primary building materials into the street-facing facade, covering a minimum of 70% of the street-facing facade or greater:

- Brick
- Stone
- Stucco

Note: Where possible, use local materials found within the region.

High-Quality, Historic Materials



Brick


Brick


Stone


Stone


Stucco


Stucco

SUBCHAPTER 34: DOWNTOWN RIVERFRONT ZONE

34.005 Purpose

The purpose of the Downtown Riverfront Zone is to:

- Allow a mixture of complementary land uses that may include retail, offices, commercial services, housing, civic uses, and lodging, to create economic and social vitality;
- Develop commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians;
- Encourage pedestrian orientation while remaining accessible to automobiles;
- Expand and strengthen the downtown commercial core while maintaining and enhancing the historic character of Independence;
- Encourage and promote the redevelopment of downtown, including housing, as a vibrant and successful mixed-use district;
- Emphasize bicycle and pedestrian connections along natural amenities, such as the Willamette River, as a way of moving residents and visitors across town and improving connections to downtown;
- Create a strong link from the commercial core along Main Street to the Willamette River, and from within the zone to the amphitheater and the recreational land uses along the river;
- Maintain and improve natural areas as resources where possible and target environmental initiatives such as recycling programs and green building techniques; and
- Support the continued growth of local and living wage jobs 34.010 Downtown Riverfront Zone.

As used in this chapter, the Downtown Riverfront Zone is defined as properties bounded on the north by C Street, bounded on the east by the Willamette River bounded on the south by the north property line of the Civic Center and bounded on the west by properties facing Main Street, as shown on the Independence Zoning Map.

34.015 Applicability

The provisions of this Subchapter apply to the Downtown Riverfront Zone designated on the City of Independence Zoning Map and supersede other requirements called out elsewhere in the Development Code.

34.020 Special Standards for Downtown Riverfront Zoning District

The units and square feet for the following land uses are the maximum allowed, at full build out, of the zoning district:

Uses	Standard
Multiple-Family	200 units
Townhomes/Rowhouses	30 units
Lodging	150 rooms
Commercial	25,000 square feet

34.025 Permitted and Conditional Uses

Uses not listed in Subchapter 30 or uses that are listed in 34.027 are considered to be prohibited, except as provided in Section 10.050.

34.027 Prohibited Uses

The following uses are prohibited in the Downtown Riverfront Zone:

A. Medical Marijuana Grow Site.

B. Medical Marijuana Processing Site.

C. Recreational Marijuana Producer.

D. Recreational Marijuana Processor.

E. Recreational Marijuana Wholesaler.

34.031 Special Use Limitations for Marijuana Facilities

A. At the time a Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory locates in the DRZ Zone, the Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory may not be located:

1. Within 1,000 Feet of an Elementary or Secondary School; or

2. Within 250 Feet of a Public Library, Public Park, Public Playground, Public Recreational Facility, or Public Athletic Field.

B. A Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory must possess a valid business registration in accordance with Chapter 8 of the Independence Municipal Code, Article XII, Marijuana Facilities.

C. A Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory may not include a Drive-Through Facility.

D. A Medical Marijuana Dispensary, Recreational Marijuana Retailer, Marijuana Research Facility, or Marijuana Testing Laboratory located in the DRZ Zone must be located in a Building, as that term is defined in the Uniform Building Code.

34.040 Development Standards

A. Purpose and Applicability: The Development Standards include required land use regulations that guide how sites and buildings can be developed. The standards are intended to encourage a similar pedestrian orientation as that found downtown while remaining accessible to automobiles.

B. Standards: The Development Standards include three (3) main topics. The topics reflect the manner in which buildings are designed and developed.

1. Topic 1, “SITE” specifies the key development standards that impact the potential use and dimensions of the site.

2. Topic 2, “HEIGHT/BUILDING MASSING”, specifies the development standards that impact the potential height and building massing.

3. Topic 3, “ARCHITECTURAL FEATURES”, specifies development standards that require architectural details to the building.

TOPIC 1: SITE

A. Density Requirements

1. A minimum average density of nine (9) dwelling units per net acre
2. Lot Coverage: The following lot coverage standards apply:
    a. For commercial, residential and mixed-commercial/residential development: Minimum of 50%.

B. Setbacks shall be provided as follows:

1. Commercial Buildings:
    a. Front: Between 0 and 20 feet
    b. Side: No requirement.
    c. Back: No requirement.
2. Lodging Buildings:
    a. Front: Between 0 and 30 feet
    b. Side: 5 feet minimum, no maximum
    c. Back: No requirement
3. Attached single-family dwellings (townhouses and rowhouses):
    a. Front: Between 0 and 25 feet. Attached garages shall be set back 19-21 feet. In no case shall attached garages be set back less than 4 feet from the façade of the dwelling unit.
    b. Side: end units shall set back 5 feet.
    c. Back: No requirement
4. Multiple-family dwellings:

a. Front: Between 0 and 20 feet
b. Side: 5 feet minimum, no maximum
c. Back: No requirement

C. Build-to Line: In the Downtown Riverfront Zone, 40% of the overall development length of a building shall be placed along a build-to-line located at the front edge of the setback. This standard applies to multiple buildings on a single lot.

D. Standards for Drive-Through Facilities: Drive-in and drive- through facilities are prohibited within the Downtown Riverfront.

1. Exceptions: Lodging uses are allowed to provide temporary short-term covered parking to allow for pick-up/drop-off and brief transactions.

E. Parking shall be provided as required in Subchapter 73.

F. Bike Parking:

1. For commercial and lodging uses, provide 1 parking space for every 10 vehicle parking spaces.
2. For residential uses, provide an interior secure bike parking area at the rate of 1 space for every 4 units. Additionally, provide 1 exterior bike rack spaces for every 10 residential units.
3. Locate exterior bike parking within 50 feet of main residential and commercial entries for each building.
4. Exterior bike parking areas shall paved with hard surface materials.
5. Exterior bike racks, frames, posts, or other devices shall be durable and made of metal or concrete.

G. Parking and Access

1. Parking shall be prohibited between the front of the building and the street.

a. Exception: For townhouses or rowhouses, one parking stall per unit may be allowed, so long as it complies with the setbacks in IDC 34.040 Topic 1(B).

2. Internal pedestrian connections shall be provided in parking lots with greater than ten (10) spaces per the requirements in IDC 73.020(N).

I. Off-Street Parking Lot Landscaping: The landscape standards in IDC 54.205(B) shall shall apply to off-street parking lots.

<u>TOPIC 2: HEIGHT/BUILDING MASSING</u>

A. Height: No building height shall exceed three (3) stories or 40 feet in height.

1. Exceptions:

    a. Rooftop penthouses, equipment and stair towers for roof access or rooftop decks may extend up to 52 feet in total height from the ground floor.
    b. Buildings containing lodging uses shall not exceed four (4) stories or 55 feet in height.
    c. Equipment and stair towers for roof access or rooftop decks may extend up to 67 feet in total height from the ground floor for buildings containing lodging uses.

B. Main Entrance/Front Door: A direct pedestrian connection shall be provided from the main entrance on the front facade of the building to the sidewalk.

C. Ground Floor Windows:

1. Commercial/Lodging Uses: Transparent windows shall be required along a minimum of 50% of the length of the ground-level street-facing façade and 60% of the overall ground floor street-facing wall area, defined as the first floor of a building that is used and directly accessible from the exterior finished grade.
2. Residential Uses and the Non-Street Facing Walls of Commercial/Lodging Uses: On other facades, provide windows along 25% of the length of the facade and 20% of the overall façade area. The back of the building has no windows requirement.
3. Commercial doors facing the street shall consist of a minimum of 40% transparent glazing. No glazing is required for ground floor doors in residential uses.

D. Exterior Display: The following exterior activities shall be allowed in the proposed Downtown Riverfront Zone, provided that they leave a five (5) foot clear pedestrian path for unrestricted movement and are an extension of the interior use:

1. Outdoor eating or gathering
2. Outdoor produce markets and flower stands
3. Temporary displays of merchandise or wares (limited in duration to one week).

<u>TOPIC 3: ARCHITECTURAL FEATURES</u>

A. Roof Forms: There is no requirement for either flat or sloped roofs other than they meet the following standard of design:

1. For flat roofed buildings:

    a. Parapets shall be a minimum of two (2) feet in height.
    b. Cornices shall meet the following requirements:

        i. The top of the cornice is a minimum of six (6) inches from the face of the building and the base of the cornice is a minimum of two (2) inches

from the face of the building

ii. The total height of the cornice on buildings 15 feet or less is a minimum of 12 inches, on buildings between 15 and 30 feet is a minimum of 18 inches, and on buildings taller than 30 feet is a minimum of 24 inches.

2. For pitched roofed buildings:

    a. Sloped roof should be between 3:1 and 1:1.
    b. Eaves should overhang a minimum of 12 inches.

B. Building and Parking Lot Lighting

1. Colored light bulbs and internally lit awnings or canopies shall be prohibited for buildings and within parking lots, except for temporary holiday displays.
2. The following standards shall apply to lighting on buildings and within parking lots:

    a. Building lighting shall be integrated with the architecture.
    b. Parking lot lighting shall emit on average 0.6-to-0.8-foot candles and shall not exceed an average height of 30 feet.
    c. Interior display windows shall be designed to be illuminated in evening hours, with provisions for reduced illumination late in the evening.

34.050 Townhomes, Rowhouses and Multifamily Standards

A. Triplexes, Quadplexes, and Townhouses

Triplex, quadplex, and townhouse developments shall comply with the standards in 1-4, below. The standards are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. Windows. All triplexes, quadplexes, and townhouses shall have vertically oriented windows. Square or horizontal windows shall be formed by combining multiple window sashes into groupings. Transom windows, and other windows placed above a door or window for ornamental or decorative purposes are exempt from this requirement.
2. Building Mass Supplemental Standard. Within the Downtown Riverfront Zoning District, the maximum number and width of consecutively attached townhomes (i.e., with attached walls at property line) shall not exceed four(4) units, or 120 feet (from end-wall to end-wall), whichever is less.
3. Townhome subdivisions (4 or more lots) may receive vehicle access from a rear alley. Alley(s) shall be created at the time of subdivision approval. As necessary, the city shall require dedication of right-of-way or easements and construction of pathways between townhome lots (e.g., between building breaks).

4. Street Access Developments. Triplexes, quadplexes, and townhomes receiving access directly from a public or private street shall comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, and minimize paved surfaces for better stormwater management.

    a. When garages face the street, they shall be recessed behind the front elevation (i.e., living area or covered front porch) by a minimum of 4 feet.
    b. The maximum allowable driveway width facing the street per dwelling unit shall comply with the Public Works Design Standards. The maximum combined garage width per unit is 50 percent of the total building width. For example, a 24-foot-wide unit may have one 12-foot-wide recessed garage facing the street.
    c. Two adjacent garages shall share one driveway when individual driveways would otherwise be separated by less than 20 feet (i.e., the width of one on-street parking space). When a driveway serves more than one lot, the developer shall record an access and maintenance easement/agreement to benefit each lot, before building permit issuance.

5. Common Areas. “Common areas” (e.g., landscaping in private tracts, shared driveways, private alleys, and similar uses) shall be maintained by a homeowners association or other legal entity. A homeowners association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city before building permit approval.

B. Multiple-Unit housing.

New multiple-unit developments shall comply with all of the following standards:

1. Private open space standard. Private open space areas shall be required for ground-floor and upper-floor housing units based on all of the following standards:

    a. A minimum of 50 percent of all ground-floor housing units shall have front or rear patios or decks measuring at least 48 square feet. Ground-floor housing means the housing unit entrance (front or rear) is within 5 feet of the finished ground elevation (i.e., after grading and landscaping);
    b. A minimum of 50 percent of all upper-floor housing units shall have balconies or porches measuring at least 24 square feet. Upper floor housing means housing units that are more than 5 feet above the finished grade; and
    c. Private open space areas shall be oriented toward common open space areas and away from adjacent single-unit residences, trash receptacles, parking and drives to the greatest extent practicable.

2. Landscaping. All development is subject to the landscaping provisions in Subchapter 54, except as amended in subsection 34.055(B). Recreation areas may be included as part of the required landscaping.

3. Screening. All exterior garbage collection areas, recycling areas, and mechanical equipment shall be screened to meet the standards of Section 54.010(C) of the Independence Development Code. Garbage collection areas, recycling areas and mechanical equipment shall be located away from the street.

4. Design Review. All new developments and expansion of an existing development shall be subject to the Site Design Review procedures of Subchapter 80.

34.055 Additional Development Standards

In addition to the standards described above, all developments in the Downtown Riverfront Zone shall comply with the following specific standards:

A. Signs. Signs shall be subject to the provisions of Subchapter 58 as amended below.

1. Projecting signs may be up to 45 feet above the floor level at the main entry into the building for lodging uses.
2. Supporting structure for signage may be exposed if it is of an architecturally designed quality.

B. Landscaping. All development is subject to the landscaping provisions in Subchapter 54 as amended below:

1. Subchapter 34 shall identify where buffering and screening is required and the size of each element. Subchapter 54 governs the requirements for buffering and screening where required.
2. Subchapter 34 shall govern setback requirements.
3. Subchapter 34 shall govern lot coverage and minimum/maximum landscape area requirements.
4. Subchapter 34 shall govern the minimum number and placement of trees required.

C. Access. Access points to property from a street shall be consolidated and located to minimize traffic congestion. Access roads and access points shall comply with the Public Works Design Standards. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

34.060 Downtown Riverfront Zone Design Standards and Guidelines

A. Purpose. In an effort to protect and enhance the downtown core area of Independence, the

City has adopted a special set of commercial design standards and guidelines. The Downtown Riverfront Zone Design Standards and Guidelines shall apply only to commercial and mixed use commercial/residential properties that are in the Downtown Riverfront Zone.

B. The design standards and guidelines are intended to:

1. Provide a structure to explain to developers, property owners, architects, planners, elected officials, and citizens what types of projects comply with the community's vision for a vibrant and active downtown riverfront.
2. Ensure that future development is consistent with the downtown core's existing pedestrian-oriented scale of buildings while also addressing the unique opportunity of the riverfront.
3. Strengthen the downtown as the heart of the community, and as the place for people and business.
4. Enhance the physical appearance of downtown through high-quality design.
5. Maintain and enhance the historic character of Independence.
6. Connect downtown more directly with the riverfront through pedestrian and biking connections.

C. Applicability: All new construction and all remodels costing more than 60 percent of the existing building’s assessed value are required to meet the Downtown Riverfront Design Standards or Guidelines in addition to, the development standards and additional development standards found in this subchapter. When a conflict exists between this subchapter and the Independence Development Code, standards contained in this subchapter shall apply.

D. Design Standards and Guidelines: The design standards and guidelines help guide the development and redevelopment of properties within the Downtown Riverfront zone. They are intended to provide a framework for how Downtown Independence should look, function and feel.

E. The design standards and guidelines consist of two primary elements:

1. Intent Statement/Design Guideline: Presents the big idea or goal to be accomplished through the standard (ex. “Create a streetscape at the ground floor that is active and inviting”)
2. Approach(es): Lays out the methods which applicants can use to meet the Intent Statement (ex. “Divide the ground floor into architectural bays”).

F. Application Process: Planning staff or the Planning Commission (as described below) shall approve, approve with conditions, or deny an application based upon compliance with the design standards or guidelines. Approval shall be obtained from the review authority prior to the issuance of a building permit for all non-exempt development. Non-exempt development in the Downtown Riverfront zone has two tracks for obtaining development permits.

1. Track 1 - Administrative Review of Compliance with Design Standards.

    a. Under the Track One process, the applicant is provided with a "menu" of clear and objective approaches that they can chose in order to meet the design standards and guidelines intent statements. A Track 1 application is reviewed administratively by City of Independence Planning Staff as a Type 1 Action.
    b. In many cases, the same approaches are presented as a means to achieving different design standards. In the event that a specific approach has already been used to meet a previous design standard, the applicant is required to choose an alternative approach for another design standard or another requirement within the design standard. The applicant is required to meet all of the design standards.

2. Track 2 – Discretionary Review of Compliance with Design Guidelines.

    a. If an applicant chooses not to respond to the design standards and instead proposes a more creative response to meeting the intent statements, they follow a Track Two process. The intent statements become the criteria for determining whether or not the objective of the design standard is being accomplished. The applicant is required to explain via a narrative and basic drawing set (site plan, building elevations and materials board) how the project meets the design guideline/intent statements.
    b. Applicants who opt for the Track Two approach are required to meet all of the intent statements/design guidelines i.e. they must go through design review, a discretionary process, to explain how their project will meet all the design guidelines. The project shall be reviewed by the Planning Commission for compliance with the design standards and guidelines as a Type II action.

A. Approval Process. Under the Track One process, the City of Independence Planning Staff shall use the standards in this section to ensure compliance with the development and design standards. Under the Track Two process, the City of Independence Planning Commission shall use the intent statements in this section to ensure compliance with the development standards and design guidelines.

B. Design Standards and Guidelines.

1. Building Divisions

    a. Intent Statement/ Design Guideline: Build upon Independence’s historic downtown architecture by creating an attractive and unified tripartite façade that celebrates the ground floor and the middle and top of the building.
    b. Approaches: Create street-facing building facades that articulate a clear and distinct base, middle, and top to break up the vertical massing of the

building. Utilize banding and changes in color and/or material to emphasize horizontal breaks in the building plane. This standard applies to buildings of all heights and number of stories.

i. Ground Floor Base: The base of the ground floor extends from the top of the finished grade or sidewalk to the bottom of the window sill. In order to create a discernible base that anchors the building, applicants shall include at least one of the following elements in the base of the ground floor:

   • Projected window sills (12 - 24 inches above grade)
   • Masonry or finished concrete plinth
   • Bulkhead constructed of concrete, brick, or stone

ii. Ground Floor Middle: The middle of the ground floor is typically compromised of a storefront window. The middle section of the ground floor should contain at least one of the following elements:

   • Integrated horizontal and vertical window mullions
   • Window planter box
   • Decorative building light fixture or wall sconce.

iii. Ground Floor Top: The top of the ground floor façade is the area between the storefront and the upper stories of the building. The top of the ground floor should contain at least one of the following elements:

   • A marquee or projecting blade sign (8’-12’ above grade)
   • Sign frieze
   • Storefront awning or canopy (8’-12’ above grade)
   • Storefront cornice or belt course
   • Transom Window

iv. Middle: The middle of the building often contains smaller, vertically-oriented windows to reflect changes in use on upper floors. To distinguish the middle of the building from the top and base, applicants should incorporate two of the following types of elements:

   • Vertically oriented windows
   • Changes in color
   • Stepbacks
   • Horizontal band(s)/signage bands
   • Bay windows
   • Balconies
   • Brick reveal/soldier course (vertically oriented brick)

Note: Horizontal bands should be a minimum of 8 inches high (the length of a standard brick) and can be formed by a change in materials, color, brick orientation, or by projecting materials from the face of the building.

v. Top: The top of the building shall include a “cap” element at the upper most portion of the facade in order to visually terminate the building face and emphasize a distinct profile. To create visual interest at the top of the building, applicants shall incorporate one of the following elements:

• Cornice or projected parapet
• Hipped or gabled roof
• Roof top gardens that consist of plant materials visible from the sidewalk and street
• Roof overhang that unifies the façade over articulation in the middle zone of the building.

Note: Roof gardens represent a unique and beneficial approach to treating the top of the building. Beyond their aesthetic benefits, rooftop gardens help manage stormwater run-off that would otherwise go into storm sewers, aquifers, and streams. In addition, rooftop gardens help mitigate the heat island effect by reducing the temperature and, therefore, providing energy savings and air quality. Green roofs can also provide a food source.

2. Pedestrian Engagement

a. Intent Statement/ Design Guideline: Create a streetscape at the ground floor level that is active and inviting to passing pedestrians, bicyclists, and motorists by incorporating vertical and horizontal divisions, cohesive and repetitive architectural elements, and welcoming entries into the street-facing facade that are understandable at the human scale.
b. Approaches: Architectural bays are the larger “building blocks” of a pedestrian- oriented ground floor. They create a sense of rhythm and break down a large building into pieces. Repetitive architectural elements within these bays further create a sense of rhythm and offer components that can be understood at a human scale. When paired with prominent entries, these elements translate into an inviting storefront presence along the sidewalk that is easily accessible and reflects historic precedents of gracious retail spaces. As pedestrians pass, there are many parts of the building upon which the eye can linger that help establish a sense of scale.

i. Divide the ground floor of commercial storefronts into distinct architectural bays that are a maximum of 30 feet wide measured from

the center line of the columns. For the purposes of this standard, an architectural bay is defined as the zone between the outside edges of an engaged column, pilaster, post, or vertical wall area.

ii. Provide a minimum of two of the following architectural and decorative elements that are to be repeated within each distinct architectural bay:

- Clerestory or transom windows
- Overhangs (canopies, awnings)
- Plinths or columns (minimum of a pair)
- Decorative lighting (minimum of a pair)
- Signage (awning, blade, wall or window)
- Canopies or overhangs
- Storefront frieze, horizontal sign band, or a belt course above transom window on a mezzanine level
- Window plant box (minimum of one per window)
- Medallion (minimum of a pair).

Note: The depth of all canopies and awnings shall be a minimum of 5 feet measured from either the face of the column or the street-facing elevation.

iii. Create a prominent entry by incorporating three or more of the following elements:

- Glass entry doors
- Clerestory or transom windows
- Glass windows that flank the door
- Recessed entry bays
- Signage (awning, blade, wall or window)
- Decorative lighting (minimum of a pair)
- Pavers and colors that mark entry to the building
- Awnings or canopies

Note: Awning and blade signs shall be a minimum of 8’ 6” off the ground and not exceed 12% of the building elevation area, with a maximum sign face area of 60 square feet. Wall signs shall not exceed 8% of the building elevation on the primary frontage, with a maximum sign face of 60 square feet. Window signs shall not exceed 15% of total window area.

3. Corner Reinforcement

a. Intent Statement/ Design Guideline: Emphasize the intersection of streets to provide dynamic public spaces where people’s paths intersect, articulate

gateways into and within a district, provide a means of way finding, and reflect historical structures of import in the downtown.

b. Approaches: Street corners where two streets intersect and paths meet should be designed as a node of social and economic activity. This should be achieved through a distinctive architectural treatment. Incorporating strong architectural elements at street corners not only creates a more visually interesting built environment but also helps pedestrians read and understand city blocks by creating memorable design elements at the corner of each block. Choose one or more of the following architectural and site planning strategies to emphasize the corner:

    i. Locate the primary entry to the building at the corner of the building or within 50 feet of the corner of the building
    ii. Incorporate prominent architectural elements, such as increased/decreased height or massing, a cupola, a turret, or a pitched roof, at the corner of the building or within 50 feet of the corner of the building
    iii. Chamfer the corner of the building (i.e. cut a corner at a 45 degree angle at a minimum depth of 10 feet from the corner) and incorporate a combination of paving materials that are not concrete, street furnishings, and plantings.

4. Transitions from the Public Realm

    a. Intent Statement/Design Guideline: Design safe and friendly semi-public transitions between the public and private realms (between the sidewalk and building) that allow people to gather informally and interact with pedestrians in a more intimate space.
    b. Approaches: To reinforce the pedestrian realm and encourage people to gather, applicants shall implement one of the following:

        i. Courtyards: incorporate a small courtyard into the design of the street-facing facade. Further embellish the space by incorporating exterior lighting, paving, benches, and planter boxes.
        ii. Recessed zone: create a small, covered transition zone between the sidewalk and the front door. Define this space with lighting, paving, and storefront windows and doors.
        iii. Corner of buildings: create meeting places at the corner of the building by chamfering the corner of the building. Define the space with special paving and lighting.
        iv. Arcade/porch: Set the front door and the primary street- facing facade a minimum of 5 feet clear behind an arcade.

        Note: When approaches above are used in buildings along Main Street, their

use shall not prevent an applicant from meeting the Build-to-Line Standard requiring 100% of the building being placed along the front-edge of the property line.
Note: Where possible, windows should be incorporated into all walls that face courtyards. These windows should be large enough to encourage interaction between inside and outside.
Note: Arcades are typically located on the front property line. Other architecture and landscape architecture elements that allow people to gather include pergolas, moveable planters, and wrought iron or other types of transparent decorative metal fences. For arcades, spacing between detached columns or posts forming the arcade along buildings less than 50 feet in length should be a minimum of 5 feet apart and a maximum of 10 feet apart. Columns for buildings greater than 50 feet in length should be spaced a minimum of 10 feet apart and a maximum of 20 feet apart.

5. Materials

    a. Intent Statement/ Design Guideline: Promote the use of traditional and contemporary architectural materials that provide a sense of permanence and reflect the history of the City without replicating traditional building practices.
    b. Approaches: The applicant shall incorporate one of the following primary building materials into the street-facing facade, covering a minimum of 40% of the street-facing facade or greater:

        - Brick
        - Stone
        - Stucco

        Note: Where possible, use local materials found within the region.

SUBCHAPTER 37: ALLOWED USES IN INDUSTRIAL ZONES

ALLOWED USE	ZONE		
GENERAL USES	**IL**	**IH**	**IP**
Appliance, office, and electrical equipment manufacture	P	P	P
Auction house or market (no livestock or poultry sales)	P		P
Billboard	P	P	P
Building supply manufacture, contracting, and allied trades	P	P	P
Call Center	P		P
Cement, clay, glass and stone products manufacturing facilities	P	P	P
Chemicals and allied products manufacture	P[1]	P	P[1]
Child Care Facility	P[2]		
Construction and Special Trade Contractors	P	P	P
Cogeneration Facility	P	P	P
Data Center	P	P	P
Electrical and Electronic Machinery, Equipment, and Supplies	P	P	P
Fabricated Metal Products		P	
Food processing	P[3]	P	P[3]
Furniture and fixture manufacture	P	P	P
Grain, feed, and derivative products processing facilities		P	
Handcraft Industries, Small-Scale Manufacturing	P	P	P
Leather and leather products manufacture	P	P	P
Laundry, Cleaning and Garment Services	P	P	P
Machinery, Except Electrical	P		P
Machinery manufacturing		P	
Measuring, Analyzing, Controlling, Photographic or Medical Instruments	P		P
Metal fabricated products manufacture	P	P	P
Metals, manufacture and processing		P	
Mining and quarrying		P	
Miscellaneous uses	P[4]	P[4]	P[4]
Motor Freight Depot and Warehouse	P	P	P
Paper and allied products	P[5]	P	P[5]
Petroleum and petroleum by-products processing and storage		P	
Printing, publishing and allied industries	P	P	P
Professional, scientific and control equipment manufacture		P	
Offices		P	
Recreational facilities	P	P	P
Recycling Facility	P[6]	P[6]	P[6]
Research and Development or Business Incubator	P	P	P
Retail Sales and Service Less than 10,000 sq. ft. Floor Area When Housed with Related Manufacturing	P		P
Rubber and Miscellaneous Plastics Products		P	

Storage facilities	P	P	P
Textiles and finished textile products		P	
Transportation equipment manufacture, repair, services, or storage	P	P	P
Warehouse and Distribution	P	P	P
Well-drilling and pump-repair facility	P	P	P
Wholesale firm (not open to general public)	P	P	P
Wood and lumber products processing, manufacture, and storage	P	P	P
PUBLIC IMPROVEMENTS	**IL**	**IH**	**IP**
Structure or facility necessary for the City or for a public utility to provide service within the City. Such structures shall include, but not be limited to: construction, operation, maintenance or repair of electric service meters, lines, transformers, and poles natural gas lines telephone lines and poles water and sewer lines streets, pathways and sidewalks, including any project identified in the Transportation System Plan.	P	P	P
MARIJUANA USES[7]	**IL**	**IH**	**IP**
Medical Marijuana Grow Site	P	P	P
Medical Marijuana Processing Site	P	P	P
Medical Marijuana Dispensary	P		P
Recreational Marijuana Producer	P	P	P
Recreational Marijuana Processor	P	P	P
Recreational Marijuana Wholesaler	P	P	P
Recreational Marijuana Retailer	P		P
Marijuana Research Facility	P	P	P
Marijuana Testing Laboratory	P	P	P

Notes:

P = Permitted Use

1. Perfumes, cosmetics, other toilet preparations, and pharmaceutical manufacture only allowed in zone
2. This use is allowed so long as the activity is licensed through the State of Oregon.
3. Does not allow livestock slaughter, rendering, and processing in zone
4. Miscellaneous uses include:
   a. Advertising sign or structure pertaining to the business conducted on the premises;
   b. Ambulance service;
   c. Appliance repair;
   d. Dairy products (butter, ice cream, or cheese making; milk processing);
   e. Dwelling for a caretaker or watchman for the premises only;
   f. Fire station;
   g. Frozen food or cold storage locker and ice plant;
   h. Garden, crop cultivation;
   i. Greenhouse;
   j. Metal working equipment wholly within a building;
   k. Outdoor plant nursery;
   l. Parking lot or public garage;

m. Public utility;
n. "U-Haul" concrete mix store;
o. Welding shop and blacksmith shop.

5. Paper product assembly only allowed in zone
6. Does not allow Automobile Wrecking Yards
7. Permitted marijuana uses are subject to the special use limitations in Subchapter 45

SUBCHAPTER 38: DENSITY, AREA, AND DIMENSION REQUIREMENTS IN INDUSTRIAL ZONES

DENSITY AND DIMENSION STANDARDS	ZONE		
	IL	**IH**	**IP**
Minimum Lot Area	5,000	5,000	10,000
Required Yards			
Front	0 [1]	0 [1]	See IDC 45.035
Side	0 [2]	0 [2]	
Rear	0 [2]	0 [2]	
Minimum Lot Width	50	50	-
Allowed Height	45	70	45

Notes:

1. Front Yard: No front yard shall be required for any lot or parcel in the IL or IH zone unless the front yard either abuts, or is located across an adjoining right-of-way and within 100 feet of, property used or zoned for residential uses. A front yard that either abuts, or is located across an adjoining right-of-way and within 100 feet of, property used or zoned for residential uses shall have a minimum front yard setback of twenty (20) feet and shall conform to the buffering and screening requirements of Section 54.010.
2. Side and Rear Yard: No side or rear yard shall be required for any lot or parcel in an IL or IH zone unless a side or rear adjoins or is across the street from property used or zoned for residential uses. A side or rear yard that either abuts, or is located across an adjoining right-of-way and within 100 feet of, property used or zoned for residential uses shall have minimum side or rear yard setbacks of five (5) feet in the IL Zone and ten (10) feet in the IH Zone, and shall be bounded by a fence or sight-obscuring evergreen hedge at least six (6) feet high.

SUBCHAPTER 39: INDUSTRIAL PERFORMANCE STANDARDS

The discharge into the environment of solids, liquids, or gases in such quantities as to be detrimental to the public health, safety and welfare or to cause injury to human, plant, or animal life or to property is prohibited in Industrial zones (IL, IH, IP). In industrial zones, no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

A. Heat, glare, and light:

1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building; such heat and glare shall not be discernible at or beyond the property line;

2. Exterior lighting shall be directed away from and shall not reflect on adjacent properties.

B. Noise:

Noise shall be muffled and shall not be objectionable due to intermittence, frequency, or shrillness and shall not exceed the standards established by the State Department of Environmental Quality.

C. Sewage:

Adequate provision shall be made for the disposal of sewage and waste materials. Such provisions shall meet the requirements of the State Department of Environmental Quality.

D. Vibration:

No vibration, other than that caused by highway vehicles and trains, shall be permitted if such vibration will endanger the health, welfare, or safety of the public or constitute a public nuisance.

E. General Standards:

No activity shall be conducted in the industrial zones which will cause the emission of noise, vibration, residue, discharge or odor which is offensive to the community.

SUBCHAPTER 40: LIGHT INDUSTRIAL (IL) ZONE

40.005 Purpose

The purpose of the Light Industrial (IL) zone is to define and protect areas suitable for a wide range of light manufacturing and related activities.

40.010 Permitted Uses

Permitted uses within the Light Industrial (IL) Zone are presented in Subchapter 37. Uses not allowed within the matrix are considered to be prohibited, except as provided in Section 10.050 or 40.015.

40.015 Conditional Uses

If authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an IL zone:

A. Chemicals, fertilizers, insecticides, paint and allied products manufacturing facilities:
B. Colleges and Vocational Schools
C. Entertainment, Major Event
D. Food, grain, feed, and derivative products processing facilities:
E. Meat products processing and manufacturing facilities
F. Paper and allied products manufacturing facilities:
G. Textiles and Finished Textile Products, Excluding Leather Products
H. Underground storage of petroleum products.
I. Waste Related, Excluding Recycling and Cogeneration

40.020 Prohibited Uses

Within an IL zone, the following uses are explicitly prohibited:

A. Residential dwellings of any kind, excepting dwellings or manufactured dwellings used for caretakers or night watch persons.
B. Automobile wrecking yards.

40.021 Special Use Limitations for Marijuana Facilities

Special use limitations for marijuana facilities in industrial zones are presented in IDC Subchapter 45.

40.025 Area and Dimension Requirements

Allowed height, lot area, setbacks and other area and dimension requirements in the Light Industrial (IL) Zone are presented in IDC Subchapter 38.

40.045 Parking and Access

A. When a front setback is required under Section 40.025 the following standards shall apply:

    1. Parking shall be prohibited between front building line and street; and

    2. No parking area shall exceed 50% of the total frontage of the site.

B. Access points to property from a street shall be located to minimize traffic congestion, and maximum effort shall be made to avoid directing traffic into residential areas. Existing access roads and access points shall be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

40.060 Industrial Performance Standards

Performance standards for development in industrial zones are presented in IDC Subchapter 39.

40.065 Conditions

Conditions may be established for any use, activity, or structure in the IL zone. Such conditions shall be the minimum necessary to insure that the purpose of the IL zone is accomplished. Guarantees and evidence that such conditions will be complied with may be reviewed.

SUBCHAPTER 41: HEAVY INDUSTRIAL (IH) ZONE

41.005 Purpose

The purpose of the Heavy Industrial (IH) zone is to define and protect areas suitable for manufacturing and heavy industry; for uses which are potentially incompatible with most other land uses, or for uses which require major rail, truck, or aircraft shipping facilities.

41.010 Permitted Uses

Permitted uses within the Heavy Industrial (IH) Zone are presented in Subchapter 37. Uses not allowed within the matrix are considered to be prohibited, except as provided in Section 10.050.

41.015 Prohibited Uses

Within an IH zone, the following uses are explicitly prohibited:

A. Residential dwellings of any kind, excepting dwellings or manufactured dwellings used for caretakers or night watch persons.
B. Automobile wrecking yards.
C. Medical Marijuana Dispensary.
D. Recreational Marijuana Retail.

41.021 Special Use Limitations for Marijuana Facilities

Special use limitations for marijuana facilities in industrial zones are presented in IDC Subchapter 45.

41.025 Area and Dimension Requirements

Allowed height, lot area, setbacks and other area and dimension requirements in the Heavy Industrial (IH) Zone are presented in Subchapter 38.

41.040 Parking and Access

A. When a front setback is required under Section 41.025 the following standards shall apply:

    1. Parking shall be prohibited between front building line and street; and

    2. No parking area shall exceed 50% of the total frontage of the site.

B. Access points to property from a street shall be located to minimize traffic congestion, and maximum effort shall be made to avoid directing traffic into residential areas. Existing access roads and access points shall be

used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphaltic concrete or similar permanent surfacing.

41.055 Industrial Performance Standards

Performance standards for development in industrial zones are presented in IDC Subchapter 39.

41.060 Conditions

Conditions may be established for any use, activity, or structure in the IH zone. Such conditions shall be the minimum necessary to insure that the purpose of the IH zone is accomplished. Guarantees and evidence that such conditions will be complied with may be reviewed.

SUBCHAPTER 42: INDUSTRIAL PARK

42.005 Purpose

The Industrial Park Zone is intended to accomplish the following purposes:

A. To define and protect areas for manufacturing and related industrial activities;

B. To ensure that such activities are developed and maintained so as to be compatible with immediately surrounding land uses and the general community;

C. To provide standards and review procedures by which such compatibility can be assured.

42.010 Permitted Uses

Allowed permitted uses within the Industrial Park (IP) Zone are presented in Subchapter 37. Uses not allowed within the matrix are considered to be prohibited, except as provided in Section 10.050 or 42.015.

42.015 Conditional Uses

Within an IP zone, other industrial uses not permitted under Section 42.010 may be permitted in accordance with the conditional use procedures specified in Section 71, provided that such uses meet the other applicable standards of this zone and are not specifically prohibited in 42.020.

42.020 Prohibited Uses

Within an IP zone, the following uses are explicitly prohibited:

A. Residential dwellings of any kind, excepting dwellings or manufactured dwellings used for caretakers or night watch persons.
B. Automobile wrecking yards.

42.021 Special Use Limitations for Marijuana Facilities

Special use limitations for marijuana facilities in industrial zones are presented in IDC Subchapter 45.

42.025 Area and Dimension Requirements

Allowed height, lot area, setbacks and other area and dimension requirements in the Industrial Park (IP) Zone are presented in Subchapter 38.

42.035 Yards

A. Front Yard: There shall be a front yard on every lot or parcel in an IP zone. Such a yard shall have a depth of at least 20 feet. No front yard shall be used as a loading parking, or storage area. Additional yard area, depth, landscaping, or other requirements in addition to those specified in this section may be required in accordance with the site review provisions of Section 42.055 below.

B. Side and Rear Yards: There shall be side yards and a rear yard on every lot or parcel in an IP zone. Such yards shall have a depth of at least 10 feet. No rear or side yards shall be required adjacent to a railroad, railroad siding, or spur track. Additional yard area, depth, landscaping, or other requirements in addition to those specified in this section may be required in accordance with the site review provisions.

42.050 Industrial Performance Standards

Performance standards for development in industrial zones are presented in IDC Subchapter 39.

42.055 Conditions

Conditions may be established for any use, activity, or structure in the IP zone. Such conditions shall be the minimum necessary to ensure that the purpose of the IP zone is accomplished. Guarantees and evidence that such conditions will be complied with may be reviewed.

SUBCHAPTER 45: STANDARDS FOR MARIJUANA FACILITIES IN INDUSTRIAL ZONES

45.005 Special Use Limitations for Marijuana Facilities in Industrial Zones

A. At the time a Marijuana Facility locates in an industrial zone, the Marijuana Facility may not be located:

1. Within 1,000 Feet of an Elementary or Secondary School; or

2. Within 250 Feet of a Public Library, Public Park, Public Playground, Public Recreational Facility, Public Athletic Field, or residentially zoned real property.

B. A Marijuana Facility must possess a valid business registration in accordance with Chapter 8 of the Independence Municipal Code, Article XII, Marijuana Facilities.

C. A Marijuana Facility may not include a Drive-Through Facility.

D. A Marijuana Facility located in an industrial zone must be located in a Building, as that term is defined in the Uniform Building Code.

E. A Medical Marijuana Dispensary must have a total floor area of less than 10,000 square feet.

F. A Recreational Marijuana Retailer must have a total floor area of less than 10,000 square feet and must be located on the same tax lot as a Recreational Marijuana Producer or a Recreational Marijuana Processor.

SUBCHAPTER 47: NEIGHBORHOOD COMMERCIAL OVERLAY

47.005 Purpose

The Neighborhood Commercial Overlay is designed to promote the quality of life in Independence and to provide commercial areas that serve the day-to-day needs of the surrounding neighborhood. Neighborhood commercial areas are intended to be located at the intersections of major roadways – typically collectors and arterials (to ensure access by a sufficient population to serve the area) – and are meant to enhance rather than intrude on the character of a residential neighborhood.

47.010 Designation Process

A. Locations for the Neighborhood Commercial Overlay shall be identified and designated as part of a subdivision application.

B. The following location standards shall apply to the designation of the area:

1. When sought, Neighborhood Commercial Overlay locations shall be sited at or near the intersection of major roadways (arterials and/or collectors) in the MX Zone; the intersection of Hoffman Road and Gun Club Road; and/or the intersection of Corvallis Road and Mt. Fir Drive.

2. The location shall be designed to not exceed 12,000 square feet of commercial space in total – with each of the individual commercial uses designed to not exceed 2,000 square feet in size.

47.015 Use and Development Standards:

A. Once a Neighborhood Commercial Overlay has been designated, the following uses are permitted within the area:

1. Permitted Uses. The following permitted uses are allowed in the Neighborhood Commercial Overlay:

    a. Offices having a maximum floor area of 2,000 square feet or less.
    b. Retail and restaurants having a maximum floor area of 2,000 square feet or less. Drive-through facilities and vehicle servicing/repair are not allowed.
    c. Residences on the upper floors of a commercial building.

2. Multiple Allowed Uses. Multiple permitted uses may locate in the same building.

3. Prohibited Uses. The following uses are prohibited in the Neighborhood Commercial Overlay:

    a. Marijuana facilities.
    b. Light industrial uses.
    c. Conditional uses in the MUPC Zone, as identified in Subchapter 30.
    d. Any other use not permitted in A.1 and 2 of this Section.

B. The following standards apply to the uses.

1. Height. Buildings in the Neighborhood Commercial Overlay shall comply with all height restrictions imposed in the underlying zone.

2. Setbacks. The following setbacks apply:

    a. Streetside - 10 feet.
    b. Side Yard (Between Commercial Uses) - O feet.
    c. Side Yard (Directly Adjacent to a Residential Use) - 10 feet.

3. Design Standards. Development within the Neighborhood Commercial Overlay shall meet all standards for the Mixed-Use Pedestrian Friendly Commercial Zone and Downtown Overlay Zone established in Subchapter 33, with the exception of IDC 33.040(F)(5), Materials.

4. Additional Requirements:

    a. Parking. Development shall meet all parking standards established in Subchapter 73. Where on-street parking is provided, the applicant may count the on-street spots directly adjacent to the proposed development against the required parking total.
    b. Fences. Fences shall meet all standards for fences in residential zones established in IDC 74.020.
    c. Garbage and Unsightly Site Features. Outdoor garbage collection areas, recycling areas, and mechanical equipment shall be screened in compliance with either IDC 54.010(C) or IDC 54.010(D).
    d. Outdoor Merchandise Display. Except for plants and garden supply products, all outdoor merchandise storage or display is prohibited.
    e. Delivery and Loading Facilities. Delivery and loading facilities shall meet the following standards:

i. Delivery and loading facilities are prohibited in required setback areas.
ii. Delivery and loading facilities shall be set back a minimum of 10 feet from property lines directly adjacent to an existing or proposed residential use. Screening, per IDC 54.010(C) or 54.010(D), shall be provided between the residential use and delivery and loading facility.

SUBCHAPTER 48: RESIDENTIAL SINGLE-FAMILY AIRPARK OVERLAY (RSA) ZONE

48.005 Purpose and Intent:

The purpose of this Subchapter is to recognize the impacts and hazards associated with the operation of the Independence State Airport, and the uniqueness of airpark-type development. It is the intent of this chapter to promote the public health and safety in the vicinity of airfields by minimizing exposure to crash hazards and high noise levels generated by air field operations by encouraging future development which is compatible with the continued operation of airfields, and established Airpark development.

48.010 Definitions: As used in this Subchapter, the following terms are defined:

AIRPORT HAZARD: Any structure over 35 feet in height, or object of natural growth, use of land or item determined by the Federal Aviation Administration (FAA) and Oregon Department of Aviation, which obstructs or interferes with the airspace required for the flight of aircraft in landing or taking off at the airfield, and any use of land which is injurious top persons or property because of its proximity to the airfield.

LAND USE, COMPATIBLE: The use of land so defined by this Ordinance.

RESIDENTIAL, AIRPARK DEVELOPMENT: Existing or proposed single-family residential development where the majority of homes have or will have aircraft hangars in addition to single-family homes. Also, all existing or proposed lots having rear lot lines abutting an existing or proposed aircraft taxi way.

RUNWAY: A defined area on an airport prepared for landing and takeoff of aircraft along its length. The runway includes any proposed new runway or runway extension shown on an Airport Master Plan or other planning document.

TREE: Any object of natural growth.

WATER SURFACES: For the purposes of this Subchapter, water surfaces shall have the same meaning as land for the establishment of protective zones.

48.015 RSA Overlay Height Limitations.

Except as otherwise provided in this Subchapter, no structure shall be erected, altered, or maintained, in any zone created by this Ordinance to a height in excess of the applicable height limitations already established in the base zoning districts.

A. Excepted Height Limitations: Nothing in this Chapter shall be construed as prohibiting the growth of any tree to a height up to fifty (50') above the surface of the land.

B. Proposed structures which exceed the maximum height in the base zoning district would be permitted upon the approval of a Variance in accordance with Chapter 70. The appropriateness of the request for the Variance may be evaluated by use of comments from the Federal Aviation Administration and/or Oregon Department of Aviation.

48.020 RSA Overlay Zone – Map and Boundary

A. Establishment of RSA Zoning Map: The RSA Overlay Zone herein established is shown on the official City of Independence Zoning Map.

B. RSA Overlay Zoning Boundary. The RSA Overlay Zoning boundary lines shown on the official Zoning Map shall be located as to include all property within city limits between Hoffman Road north to city limits and between the Independence State Airport runway and Stryker Road. Excluding the commercial area between Airport Drive and said runway, south of Cherokee Taxiway. The RSA boundary is attached as Exhibit "A" of this subchapter.

48.025 Permitted Uses.

The use of the land and buildings must be incompliance with the base zoning district as established by the Official City of Independence Zoning Map, and is further limited to the following permitted uses for the RSA Overlay Zone:

A. Residential Airpark Development.

B. Accessory uses and structures:

1. Aircraft Hangar. No aircraft hangar shall be constructed on any parcel or lot without an existing residential dwelling. An aircraft hangar cannot be used as a residence.

Notwithstanding any other provisions of this Subchapter, no use may be made of land or water within the zone established by the Chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airfield and aircraft, make it difficult for pilots to use the airfield, impair visibility in the vicinity of the airfield, create bird strike hazards, or otherwise materially endanger or interfere with the landing, take off, or maneuvering of aircraft intending to use the airfield; such as buildings with reflective glass or any type of reflective/glare producing exterior, high intensity recreation type lights (especially on high standards), smoke, antennas, microwave towers, ham radio towers, open water impoundment, land fills, garbage dumps, or incinerators, or high tension transmission lines.

C. Streets and sidewalks;
D. Projects identified in the Transportation System Plan.

48.030 Supplementary RSA Overlay Provisions.

A. Avigation Easement. When a subdivision plan or lot split is required for any property within the RSA Overlay Zone, the property owner shall dedicate an avigation easement to the City and Oregon Department of Aviation over and across that property. The easement shall hold the City, Oregon Department of Aviation, public and airfield, harmless from any damages caused by noise, fumes, dust , fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near the airfield, not including the physical impact of aircraft or parts there of.

B. Notification of Buyers. No person shall sell, nor offer for sale, any property within the RSA Overlay Zone unless the prospective buyer has been notified of the fact that the property is within the RSA Overlay Zone.

C. Land Use Exemptions. Existing subdivision plats, existing zoning, existing building permits, and any comprehensive plans adopted prior to the adoption of this Subchapter are excepted from the foregoing land use prohibitions and discouragements. However, the requirements for avigation easements and buyer/lessor notification apply to those exempted uses when a lot split is required or when a parcel and/or building is to be sold.

48.035 Density.

The density of residential development upon any parcel or lot in the RSA Zone shall not exceed three dwelling units per acre.

48.040 Lot Frontage.

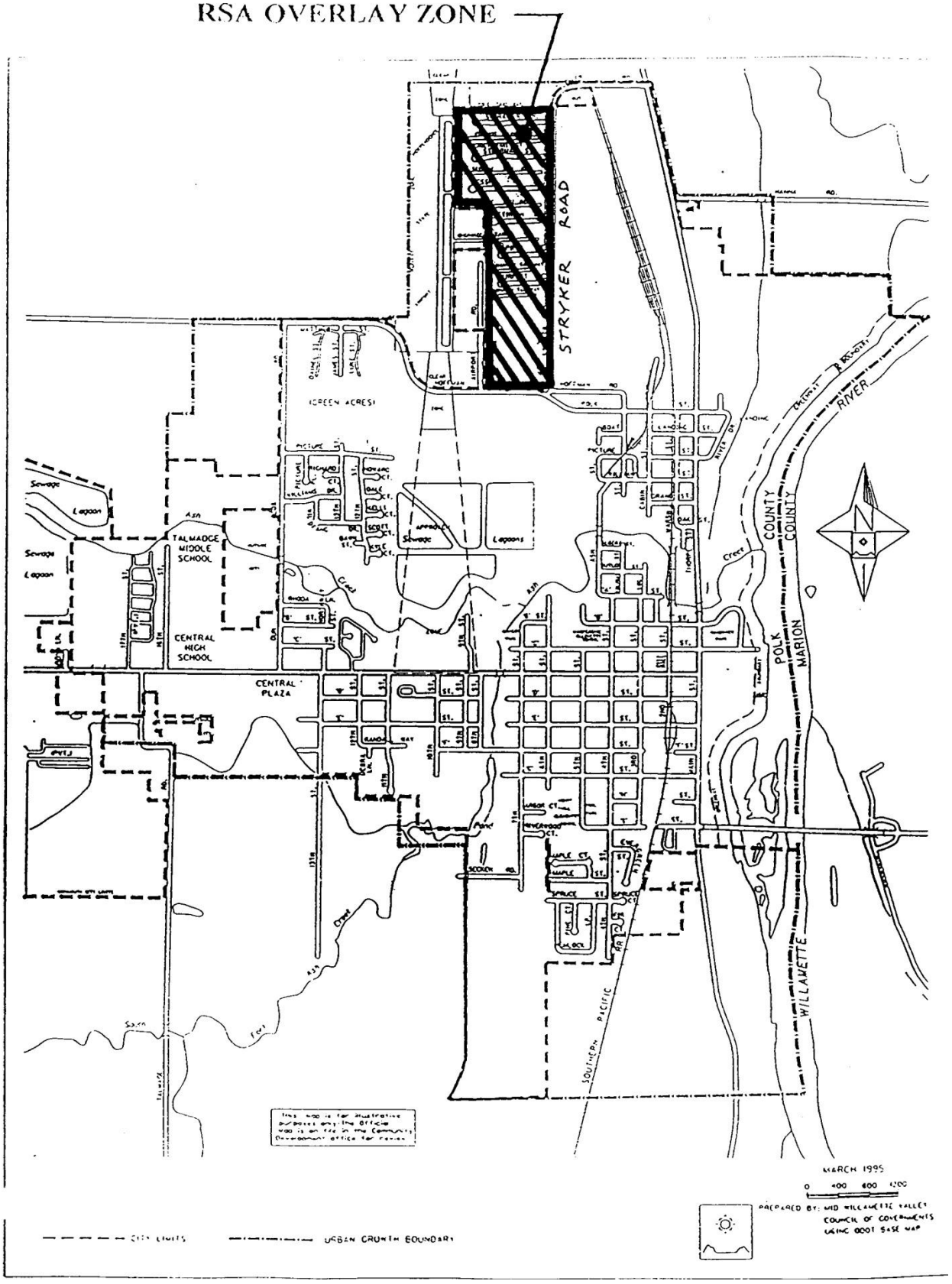
Each lot in the RSA Zone shall have a minimum of 75 feet of frontage on a public street.

48.045 Lot Width.

The minimum width at the front property line of any lot created in the RSA Zone shall be 75 feet.

48.050 Lot, Rear Property Line.

Any lot created in the RSA Zone will have a rear property line which abuts an existing or proposed taxiway.


RSA OVERLAY ZONE
STRYKER ROAD
SCREEN ACRES
TALMADGE MIDDLE SCHOOL
CENTRAL HIGH SCHOOL
CENTRAL PLAZA
Sewage Lagoon
Sewage Lagoons
Creek
RIVER
COUNTY
POLK
MARION
WILLAMETTE
SOUTHERN PACIFIC
MARCH 1995
PREPARED BY: MID WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS USING ODOT BASE MAP
CITY LIMITS
URBAN GROWTH BOUNDARY

SUBCHAPTER 50: PUBLIC SERVICES (PS) ZONE

50.005 Purpose

The purpose of the Public Services (PS) zone is to define and protect areas suitable for structures and use owned or operated by governmental agencies or for public uses and facilities serving the general community.

50.010 Permitted Uses

Within any PS zone, no structure shall be used, constructed, erected, or altered and no lot shall be used or occupied for any purposes except the following:

A. Auditorium;

B. College, university or community college;

C. Dwelling or manufactured dwelling for a caretaker or watchman;

D. Municipal golf course;

E. Municipal or government service structure or use, including, but not limited to, a reservoir, water tower, pump station, bus terminal or station, fire station, transformer station or sub-station;

F. Parkway;

G. Public park (non-commercial);

H. Public playground (non-commercial);

I. School or institution for the handicapped, provided that it is non-residential;

J. School;

K. Stadium;

M. Library;

N. Recreation center;

O. Streets and sidewalks;

P. Transportation Facilities: includes construction, operation, maintenance or repair of facilities located within right-of-way controlled by a public agency, including streets, pathways and sidewalks, consistent with the

Transportation System Plan and water, sanitary sewer, gas, oil, electric and communication lines, and stormwater facilities.

50.015 Conditional Uses

If authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in a PS zone:

A. Cemetery;

B. Commercial utilities for the purpose of generating power for sale to the public, including, but not limited to, turbine, thermo-nuclear, geothermal, or hydroelectric installations;

C. Detention and correctional home, institution, or school;

D. Hospital;

E. Hospital and institution for the mentally retarded;

F. Penal institution;

G. Public or private solid waste disposal site, solid waste transfer facility, sanitary land fill;

H. Reformatory;

I. Residential school for the handicapped.

50.020 Abandonment of Use or Transfer of Ownership

Whenever the existing use on any lot zoned PS is abandoned or the property is transferred to private ownership for a different use, the Planning Commission shall initiate the zone change process as provided in Subchapter 12.

50.025 Height

No building or structure in a PS zone shall exceed 60 feet in height.

50.030 Yards

A. Front Yard: There shall be a front yard of at least 20 feet on every lot in a PS zone. No parking of motor vehicles shall be permitted in the required front yard.

B. Side Yard: There shall be a side yard of at least five feet on each side of any lot in a PS zone. The minimum depth of any side yard adjoining a street shall be 20 feet; no parking of motor vehicles shall be permitted in the first ten feet of such a required side yard that adjoins the street.

C. Rear Yard: There shall be a rear yard of at least 20 feet on any lot in a PS zone.

50.035 Additional Yard Requirements for Tall Buildings

In a PS zone, the minimum front, side and rear yard requirements shall be increased by one foot for each foot of building height above 35 feet.

50.040 Lot Coverage

No main building shall occupy more that 50% of the area of any lot in a PS zone.

50.045 Minimum Lot Area

There shall be no requirement for the minimum area of any lot in a PS zone.

50.050 Parking

Parking and loading spaces for uses and activities in the PS zone shall be provided in accordance with the requirements of Subchapter 73, "Parking".

SUBCHAPTER 51: FLOOD DAMAGE PREVENTION

51.010 Statutory Authority, Finds of Fact, Purpose, and Methods

A. Findings of Fact

1. The flood hazard areas of the City of Independence are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

B. Statement of Purpose

It is the purpose of this Subchapter to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

1. Protect human life and health;

2. Minimize expenditure of public money for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business interruptions;

5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;

6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;

7. Notify potential buyers that the property is in a special flood hazard area

8. Notify those who occupy special flood hazard areas that they assume responsibility for their actions

9. Participate in and maintain eligibility for flood insurance and disaster relief.

C. Methods of Reducing Flood Losses

In order to accomplish its purposes, this Subchapter includes methods and provisions for:

1. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage;

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

51.020 Definitions

For purposes of this Subchapter, words or phrases used in this Subchapter shall be interpreted so as to give them the meaning they have in common usage, unless specifically defined below.

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

Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. “Special flood hazard area” is synonymous in meaning and definition with the phrase “area of special flood hazard”.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

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

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

Flood or Flooding:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

    a. The overflow of inland or tidal waters.
    b. The unusual and rapid accumulation or runoff of surface waters from any source.
    c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): See “Flood elevation study”.

Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    a. By an approved state program as determined by the Secretary of the Interior or
    b. Directly by the Secretary of the Interior in states without approved programs.

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 Subchapter.

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

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Independence and includes any subsequent improvements to such structures.

Recreational vehicle: A vehicle which is:

1. Built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area: See "Area of special flood hazard" for this definition.

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 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling 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.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

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

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance: A grant of relief by the City of Independence from the terms of a flood plain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Subchapter is presumed to be in violation until such time as that documentation is provided.

51.030 General Provisions

A. Lands to Which this Subchapter Applies

This Subchapter shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Independence.

B. Basis for Establishing the Special Flood Hazard Areas

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study for the City of Independence", with accompanying Flood Insurance Maps effective December 19, 2006, with accompanying Flood Insurance Rate Maps (FIRMs) 41053C0402F, 41053C0404F, and 41053C0410F, are hereby adopted by reference and declared to be a part of this Subchapter. The FIS and FIRM panels are on file at the Independence Community Development Department in the Independence Civic Center, 555 Main Street, Independence, OR 97351.

C. Coordination with State of Oregon Specialty Codes

Pursuant to the requirement established in ORS 455 that the City of Independence administer and enforce the State of Oregon Specialty Codes, the City of Independence does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this Subchapter is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

D. Compliance and Penalties for Noncompliance

1. Compliance

All development within special flood hazard areas is subject to the terms of this Subchapter and required to comply with its provisions and all other applicable regulations.

2. Penalties for Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Subchapter and other applicable regulations. Violations of the provisions of this Subchapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation. Any person who violates this Subchapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $2,500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing contained herein shall prevent the City of Independence from taking such other lawful action as is necessary to prevent or remedy any violation.

E. Abrogation and Severability

1. Abrogation

This Subchapter is not intended to repeal, abrogate, or impair any existing easements,

covenants, or deed restrictions. However, where this Subchapter and another Subchapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

2. Severability

This Subchapter and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Subchapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Subchapter.

F. Interpretation

In the interpretation and application of this Subchapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning and Disclaimer of Liability

1. Warning

The degree of flood protection required by this Subchapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Subchapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

2. Disclaimer of Liability

This Subchapter shall not create liability on the part of the City of Independence, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this Subchapter or any administrative decision lawfully made hereunder.

51.040 Administration

H. Designation of the Floodplain Administrator

The City of Independence City Manager is hereby appointed to administer, implement, and enforce this Subchapter by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement

these provisions.

I. Duties and Responsibilities of the Floodplain Administrator

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

1. Permit Review

Review all development permits to determine that:

a. The permit requirements of this Subchapter have been satisfied.
b. All other required local, state, and federal permits have been obtained and approved.
c. Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway, assure that the floodway provisions of this Subchapter in Section 51.050(B)(4) are met.
d. Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of Section 51.050(A)(7).
e. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.
f. Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in Section 59.020.
g. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in Section 51.050(A)(1).
h. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.

2. Information to be Obtained and Maintained

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

a. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with Section 51.050(A)(7).

b. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections 51.050(B)(4) and 51.040(B)(1)(b) are adhered to.
c. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
d. Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
e. Maintain all Elevation Certificates (EC) submitted to the City of Independence.
f. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this Subchapter and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with Section 51.050(A)(7).
g. Maintain all floodproofing certificates required under this Subchapter.
h. Record and maintain all variance actions, including justification for their issuance.
i. Obtain and maintain all hydrologic and hydraulic analyses performed as required under Section 51.050(B)(4).
j. Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under Section 51.040(B)(4).
k. Maintain for public inspection all records pertaining to the provisions of this Subchapter.

3. Requirement to Notify Other Entities and Submit New Technical Data

a. City Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the City have been modified by annexation or the City has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the City's boundaries. Include within such notification a copy of a map of the City suitable for reproduction, clearly delineating the new corporate limits or new area for which the City has assumed or relinquished floodplain management regulatory authority.

b. Watercourse Alterations. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal

agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

i. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
ii. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under Section 51.040(B)(3)(c), and the City shall ensure compliance with all applicable requirements in sections 51.040(B)(3)(c) and 51.050(A)(1).

c. Requirement to Submit New Technical Data. The City's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the City shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-Section 65.3. The City may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

i. Proposed floodway encroachments that increase the base flood elevation; and
ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

4. Substantial Improvement and Substantial Damage Assessments and Determinations

Conduct Substantial Improvement (SI) (as defined in Section 51.020) reviews for all

structural development proposal applications and maintain a record of SI calculations within permit files in accordance with Section 51.040(B)(2). Conduct Substantial Damage (SD) (as defined in Section 51.020) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in Section 51.030(B)) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

J. Establishment of Development Permit

1. Floodplain Development Permit Required

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in Section 51.030(B). The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in Section 51.020, including fill and other development activities.

2. Application for Development Permit

Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

a. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of Section 51.040(B)(2).
b. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
c. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in Section 51.050(B)(3)(c).
d. Description of the extent to which any watercourse will be altered or relocated.
e. Base Flood Elevation data for subdivision proposals or other development when required per sections 51.040(B)(1) and 51.050(A)(6).
f. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
g. The amount and location of any fill or excavation activities proposed.

K. Floodplain Development Variance Procedure

The issuance of a variance under this Subchapter is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

1. Conditions for Variances

    a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections 51.040(D)(1)(c) and (e), and 51.040(D)(2). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
    b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
    c. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
    d. Variances shall only be issued upon:

        i. A showing of good and sufficient cause;
        ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
        iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or Subchapters.

    e. Variances may be issued by the City for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of sections 51.040(D)(1)(b) - (d) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

2. Variance Notification

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a

record of all variance actions, including justification for their issuance shall be maintained in accordance with Section 51.040(B)(2).

51.050 Provisions for Flood Hazard Reduction

A. General Standards

In all special flood hazard areas, the following standards shall be adhered to:

1. Alteration of Watercourses

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 51.040(B)(3)(b) and 51.040(B)(3)(c).

2. Anchoring

    a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
    b. All manufactured dwellings shall be anchored per Section 51.050(B)(3)(d).

3. Construction Materials and Methods

    a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
    b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

4. Utilities and Equipment

    a. Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems

        i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
        ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
        iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

b. Electrical, Mechanical, Plumbing and Other Equipment

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at least one foot above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall:

i. If replaced as part of a substantial improvement shall meet all the requirements of this section.

5. Tanks

a. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
b. Above-ground tanks shall be installed at least a foot above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

6. Subdivision Proposals and Other Proposed Developments

a. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.
b. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

i. Be consistent with the need to minimize flood damage.
ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
iii. Have adequate drainage provided to reduce exposure to flood hazards.

7. Use of Other Flood Data

When Base Flood Elevation data has not been provided in accordance with Section 51.030(B) the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer Section 51.050. All new subdivision proposals and other proposed new

developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 51.050(A)(6).

Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc… where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

8. Structures Located in Multiple or Partial Flood Zones

In coordination with the State of Oregon Specialty Codes:

a. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
b. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

B. Specific Standards for Flood Zones

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in Section 51.050(A) of this Subchapter.

1. Flood Openings

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements.

Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

a. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters.
b. Be used solely for parking, storage, building access or a crawl space.
c. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

    i. A minimum of two openings.

ii. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls.
iii. The bottom of all openings shall be no higher than one foot above grade.
iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

2. Garages

a. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
i. If located within a floodway the proposed garage must comply with the requirements of Section 51.050(B)(4).
ii. The floors are at or above grade on not less than one side.
iii. The garage is used solely for parking, building access, and/or storage.
iv. The garage is constructed with flood openings in compliance with Section 51.050(B)(1) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage.
vi. The garage is constructed in compliance with the standards in Section 51.050(A).
vii. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

b. Detached garages must be constructed in compliance with the standards for appurtenant structures in Section 51.050(B)(3)(f) or non-residential structures in Section 51.050(B)(3)(c) depending on the square footage of the garage.

3. For Special Flood Hazard Areas with Base Flood Elevations

In addition to the general standards listed in Section 51.050(A) the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

a. Before Regulatory Floodway

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

b. Residential Construction

i. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the Base Flood Elevation (BFE).
ii. Enclosed areas below the lowest floor shall comply with the flood opening requirements in Section 51.050(B)(1).

c. Non-Residential Construction

i. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall:

(A) Have the lowest floor, including basement elevated at least one foot above the Base Flood Elevation (BFE); Or, together with attendant utility and sanitary facilities;
(B) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
(C) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
(D) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth Section 51.040(B)(2).

ii. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in Section 51.050(B)(1).
iii. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the

floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below.

d. Manufactured Dwellings

   i. New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 51.050(B)(1);
   ii. The bottom of the longitudinal chassis frame beam shall be at least one foot above Base Flood Elevation;
   iii. New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
   iv. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

e. Recreational Vehicles

   Recreational vehicles placed on sites are required to:

   i. Be on the site for fewer than 180 consecutive days;
   ii. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
   iii. Meet the requirements of Section 51.050(B)(3)(d), including the anchoring and elevation requirements for manufactured dwellings.

f. Appurtenant (Accessory) Structures and Fences

   Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures and fences that meet the following requirements:

   i. Appurtenant structures and fences located partially or entirely within the floodway must comply with requirements for development within a floodway found in Section 51.050(B)(4).
   ii. Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation.
   iii. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures

less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet.

iv. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials.
v. Appurtenant structures and fences must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
vi. Appurtenant structures and fences must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in Section 51.050(B)(1).
vii. Appurtenant structures and fences shall be located and constructed to have low damage potential.
viii. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed incompliance with Section 51.050(A)(5).
ix. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

4. Floodways

Located within the special flood hazard areas established in Section 51.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

    i. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or,

ii. The City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

b. If the requirements of Section 51.050(B)(4)(a) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Section 51.050.

SUBCHAPTER 52: WILLAMETTE GREENWAY DEVELOPMENT DISTRICT

52.005 Purpose

The purpose of the Willamette Greenway Development District are the following:

A. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River.

B. To implement the Independence Comprehensive Plan.

C. To implement the City's responsibilities pursuant to statutory requirements.

D. To establish criteria, standards and procedures for the intensification of uses, changes of uses, or development of lands within the GREENWAY Development District.

E. To minimize the need for a public hearing for each development application.

F. To ensure those who occupy the area within the GREENWAY District assume the responsibility of their actions.

52.010 Definitions

A. Administrative review means inspection of a site plan in order to review compatibility with the primary and overlying zone and to determine if the intensification, change of use or development requires a conditional use hearing and to insure that development requirements are met and zone guidelines are adhered to. The administrative review is to be done by the City Manager or designee.

B. Change of use means a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. Such changes of use include, but are not limited to storage of materials on a previously vacant site, construction or expansion of marine facilities or parking lots, or construction or major remodeling of a structure. It does not include a change of use of a building or other structure which does not substantially alter or affect the land upon which it is situated. change of use shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building.

C. Development means the act, process or result of developing.

D. Develop means to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights of access.

E. Intensification means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the completion of a structure for which a valid permit has been issued as of December 6, 1975. Maintenance and repair, usual and necessary, for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or protection of property are not an intensification of use. Residential use of land within the GREENWAY includes the practices and activities customarily related to the use and enjoyment of ones home. Landscaping, construction of driveways, modification of existing structures, or construction or placement of such accessory structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification. Seasonal increases in gravel operations shall not be considered an intensification of use.

F. River Dependent Use means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water.

G. River Related Use means a use which is not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

H. Site Plan means a vertical depiction of a site within the GREENWAY boundary that is the subject of the administrative review process. It will indicate access, structures, setbacks, height, prominent landscape features and other such information as required by the Administrative Reviewer.

I. Willamette Greenway Development District means all land within the City of Independence lying east of the boundary as depicted on the Willamette Greenway Map of the City of Independence, hereby adopted as Exhibit C.

52.015 Application of Willamette Greenway Development District

A. The provisions of this chapter shall apply to all lands within the Greenway boundary as designated on the Willamette Greenway map.

B. The provisions of this chapter shall apply to lands within the Greenway Development District in addition to the standards and requirements of any primary zone that may apply to such lands. A portion of land subject to this zone is also subject to the flood plain overlay zone. In no way is one overlay zone intended to conflict or over-ride the other overlay zone. They are intended to be applied simultaneously to the primary zone. In the case of any conflict between the provisions of this chapter and the provisions of any other chapter of this ordinance, the more restrictive provisions shall apply.

52.020 Site Development Requirements

For any lot or parcel located within the Greenway Development District the requirements for the following shall be determined by the primary zone except when such requirements are specifically modified by this chapter:

A. Minimum area;

B. Maximum density;

C. Front Yard;

D. Side yard;

E. Rear yard;

F. Building height;

G. Lot or parcel coverage;

H. Off street parking and loading; and

I. Signs.

52.025 Permitted Uses

A Greenway review approval shall not be required for the following in overlay zones specified:

A. Gravel removal from the bed of the Willamette River conducted under a permit from the State of Oregon; (WG-I)

B. Customary dredging and channel maintenance, (all zones);

C. The placing by a public agency of signs, markers, aids, etc., to serve the public, (all zones);

D. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands, (WG-PP);

E. On scenic easements acquired under ORS 390.332 (2)(a), the maintenance authorized by that statute and ORS 390.368, (all zones);

F. The maintenance and repair of existing flood control facilities, (all zones);

G. Any use permitted in the primary zone and after administrative review, not considered an intensification, change of use, or development;

H. Reasonable emergency procedures necessary for the safety or protection of property, (all zones);

I. Maintenance and repair usual and necessary for the continuance of an existing use, (all zones);

J. Landscaping, construction of driveways, and repair or maintenance of existing structures, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this chapter, (all zoned).

52.030 Administrative Review Approval Required

All development, change of use or intensification within the Willamette Greenway Development District requires Administrative Review prior to issuance of a building permit. Administrative Review does not require a hearing and approval will be given if the proposal is consistent with the Primary Zone and adequately meets the guidelines of the appropriate overlay zone. Additional standards that must be met prior to Administrative Review Approval are as follows:

A. The proposed use or structure is consistent with the purpose of the Willamette Greenway Development District.

B. Administrative Review Approval shall not be given for any structure over 30 feet in height.

A public hearing may be required as a result of Administrative Review, if:

A. The Administrative Reviewer is not convinced that the application or site plan adequately represent an intent to carry out the purpose of the Greenway.

B. The proposed use is not consistent with the Primary Zone or overlaying zone.

C. After Administrative Review there are still unanswered questions in the opinion of the Reviewer.

D. A guideline is not adequately met or if a determination as to whether it is or isn't being met can be made from the application and site plan.

52.035 Conditional Use Approval Required

A conditional use permit is required if during the Administrative Review process it is determined that the proposed use is not consistent with either the Primary Zone or the overlay zone guidelines. The conditional use permit procedure requires a public hearing as prescribed by Subchapter 71 of this ordinance. If the proposed use is a prohibited use in the Primary Zone of is not a conditional use, it may require approval of a different type of action. Standards for conditional use permit approvals are as follows:

A. A decision on a Greenway conditional use application shall be based on findings of compatibility with all elements of the Willamette Greenway section of the Comprehensive Plan..

B. The proposed use or structure is consistent with the purpose of the Willamette Greenway Development District.

52.036 Appeal Period and Notice Requirements

A. Any land use action or ruling made by the City Manager or designee in accordance with the provisions of this subchapter may be appealed. Such an appeal shall be directed to the Planning Commission; it shall be filed in writing with the City Manager or designee no later than 12 days of the date of the decision. If no appeal is filed within 12 days of the decision, that decision shall be final.

B. If an appeal is filed, the Planning Commission shall be given a report of the City Manager or designee’s action or ruling. The Planning Commission shall hold a public hearing of the appeal. Notice for such a public hearing shall be provided in accordance with the provisions for public hearings set forth in this ordinance. The public hearing of an appeal shall be conducted in accordance with the procedures for public hearings set forth in this ordinance. The decision of the Planning Commission regarding any appeal shall constitute a final local decision.

C. Notification of the proposed land use action and administrative decision shall be sent to:

1. Oregon State Department of Transportation (State Parks Branch) by certified mail, with return receipt requested.

2. Polk Soil and Water Conservation District.

3. Division of State Lands.

4. Residents with 250 feet of affected property.

WILLAMETTE GREENWAY DEVELOPMENT

DISTRICT OVERLAY DESIGNATIONS

52.040 Industrial (WG-1)

Intent: To insure the opportunity for continuing industrial operation, especially that which is river dependent and river related.

Guidelines:

A. The development of new, or the intensification of existing river dependent and river related industrial uses within this overlay zone and may be permitted if the applicant demonstrates that:

1. The use is actually river dependent or related.

2. Other elements of this ordinance and the Comprehensive Plan are not contrary to the use.

B. The development of new, or the intensification of existing non-river dependent and non-river related industrial uses within this overlay zone shall not be approved unless the applicant demonstrates that:

1. There is a low demand for river dependent or river related industrial sites.

2. The site of the proposed development is not particularly well adapted for river dependent or river-related industrial uses.

3. There are no available industrial sites outside the Greenway that can accommodate the proposed use.

4. The current operation is no longer a viable endeavor and serves no public need.

C. Landscaping which preserves or re-establishes the river's natural vegetative fringe shall be required where and as it does not interfere with the industrial operation or economic function of the proposed use. Such landscaping shall consist of plant materials native to the Willamette River and be of sufficient depth to provide a screening of the proposed use from the river.

D. The development of new non-industrial uses shall only be permitted after zone change approval by the city. Conditional use approval of any non -industrial proposal may be granted only if the following findings can be made:

1. There is a low demand for river-related industrial sites and the site of the proposed development is not particularly well adapted for river related industrial uses.

52.045 Commercial and Residential

Intent: To insure the continued opportunity for utilization of privately owned property for commercial or residential uses consistent with the primary zone and not subject to flooding.

Guidelines:

A. Proposals to change or intensify land uses within this zone shall be permitted if the development complies with all of the following criteria:

1. The proposed use is permitted by the primary zone.

2. The scale of the project, density of development and/or intensity of use is in keeping with the function of the Greenway Plan and protects, conserves, enhances and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the River, the site and adjacent riparian lands.

3. Uses which are not directly dependent on the river are set back landward from the 100-year flood plain line to protect public safety, open space, vegetation, scenic resources and public access to and along the river as outlined in the Comprehensive Plan.

4. The proposed development is in harmony with existing and proposed adjoining development, land uses, and zones.

5. Proposed landscaping is to be of native plant materials commonly found along the river, and be of sufficient amount of density to visually screen and/or break up the building mass.

6. Care is taken to recognize the visibility of property in this zone and to lessen any adverse effect development of these parcels will have.

52.050 Public Park (WG-PP)

Intent: To allow and encourage recreational development and public access to and along the river while preserving protecting and enhancing the scenic qualities of the river and the riparian environment.

Guidelines:

A. The city shall permit proposals to change or intensify land use within this zone which comply with all of the following conditions:

1. The proposal is for recreational uses or uses directly related to recreation.

2. The proposed development reflects river-related recreational needs, the character of the river and the unique opportunities presented by the particular site.

3. The proposed development maximizes open space and landscaping which emphasizes native plant materials.

4. The proposed development is in harmony with existing and proposed adjoining developments and land uses, and does not significantly detract from the value of an abutting property lying in a different Greenway zone.

5. The proposed development provides for public access as outlined in the Greenway Plan.

B. Public access as outlined in the Comprehensive Plan shall be provided in such a way as to disturb the natural environment and wildlife habitat as little as possible.

C. In order for land to be included in this zone it must first be publicly owned.

52.055 Agriculture and Riparian (WG-AR)

Intent: To allow for use consistent with the primary zone while preserving, protecting and enhancing the resource qualities of the river, adjacent land and the riparian environment.

Guidelines:

A. With the exception of agricultural uses, all other development proposals will require a conditional use permit. The following guidelines shall be used in the granting of a conditional use permit.

1. All development must also conform to the flood plain zone requirements.

2. No use will be permitted that has an adverse effect on adjacent agricultural land and its continued use.

3. No development or use which will be detrimental to the natural environment, wildlife, wildlife habitat, agriculture land use or scenic quality shall be allowed within this zone.

4. Developments which support the natural environment, wildlife and wildlife habitat or allow for its viewing and interpretation shall be allowed on a conditional use basis.

5. The applicant shall be required to submit a statement assessing the construction and long range impacts of the proposed development on the natural environment, wildlife, wildlife habitat and agricultural land use.

B. Public access as outlined in the Greenway Plan shall be provided in such a way as to disturb the natural environment and wildlife habitat as little as possible.

52.060 Conditions Limiting Uses

In accordance with the provisions of this ordinance governing conditional uses, the Planning Commission may impose conditions or limitations upon the use of land or structures in the Willamette Greenway Development District. Such conditions may include, but shall not be limited to the following:

A. Location and arrangement of structures.

B. Imposition of deed restrictions.

C. Retention of natural vegetation.

D. Natural resource protection methods.

E. Landscaping.

F. Structure height limitations.

52.065 Prohibited Uses

The following uses are hereby declared to be inconsistent with the purpose of the Willamette Greenway Development District and shall not be permitted in this zone:

A. Subdivision.

B. Removal of significant protective riparian vegetation with no intent to landscape or provide alternate protective measures.

C. Access to the river through private property without permission.

52.070 Non-Liability of City

The granting of any request for a conditional use for structures or uses in the flood plain shall not constitute a representation, guarantee, or warranty of any kind by the City of Independence of the practicability or safety of any structure or use proposed, and shall create no liability upon or cause of action against the city or any employee thereof for any damage that may occur.

SUBCHAPTER 53: AGRICULTURE (AG) ZONE

53.005 Purpose

The purpose and intent of the Agriculture Zone is to provide areas for the continued practice of agriculture and permit the establishment of only those new uses which are compatible to agricultural activities.

Further, it is the intent of this zone classification to provide the automatic farm use valuation for farms which qualify under the provisions of Oregon Revised Statute 308. Therefore, the Agriculture Zone is to be applied only in those areas generally well suited for farming, as indicated by the nature and type of soil, size and location of the property, the suitability of the terrain and other similar factors.

Further, the Agriculture Zone is intended to guarantee the preservation and maintenance of the areas so classified for farm use, free from conflicting non-farm uses and influences. The zone is subject to change only in those instances where there is substantial evidence that such land is no longer suitable for agriculture.

It is not the purpose or intent of this ordinance to regulate or limit farm or agricultural use of land.

Except when approval of the Planning Commission has been obtained as provided in Subchapter 53.035, all divisions of land in an agriculture zone are prohibited.

53.010 Definitions

Agriculture: For the purposes of this subchapter, "Agriculture" and "Farm Use" are synonymous.

Farm Use: The current employment of land including that portion of such lands under buildings supporting accepted farming practices for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by feeding, breeding, management and sale of, or the product of livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. It does not include the use of land subject to the provisions of ORS Chapter 321, or to the construction and use of dwellings customarily provided in conjunction with the farm use.

53.015 Permitted Uses

Within any Agriculture Zone, no building, structure or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained, except for the following uses:

A. Farm uses (see farm use definition).

B. Accessory buildings, not dwellings or manufactured dwellings, normally required in connection with a use as specified in (a) above.

C. Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale.

D. The propagation or harvesting of a forest product.

E. Placing of signs, markers, aids, etc., by a public agency.

F. Customary cleaning or maintenance of a stream or drainage.

G. Maintenance and repair, usual and necessary, for the continuation of an existing use.

H. Reasonable emergency procedures necessary for the safety or protection of property.

I. Medical Marijuana Grow Site, subject to the special use limitations described in Section 53.021.

J. Recreational Marijuana Producer, subject to the special use limitations described in Section 53.021.

K. Transportation Facilities: includes construction, operation, maintenance or repair of facilities located within right-of-way controlled by a public agency, including streets, pathways and sidewalks, consistent with the Transportation System Plan and water, sanitary sewer, gas, oil, electric and communication lines, and stormwater facilities.

53.020 Conditional Uses

When authorized under the procedure provided for conditional uses in this ordinance, the following uses may be permitted in an Agriculture Zone:

A. Operations conducted for the exploration, mining and processing of geothermal resources, as defined by Subsection 4 of ORS 522.010, aggregate and other mineral resources or other subsurface resources.

B. Private parks, playgrounds, hunting and fishing preserves and campgrounds.

C. Parks, playgrounds or community centers owned and operated by a governmental agency or a non-profit community organization.

D. Fills, dikes, or levees.

E. A single family dwelling or a manufactured dwelling subject to the provisions of Sections 51 and 52 and ORS 215.203.

53.021 Special Use Limitations for Marijuana Facilities

A. At the time a Medical Marijuana Grow Site or a Recreational Marijuana Producer locates in the AG Zone, the Medical Marijuana Grow Site or Recreational Marijuana Producer may not be located:

1. Within 1,000 Feet of an Elementary or Secondary School; or

2. Within 250 Feet of a Public Library, Public Park, Public Playground, Public Recreational Facility, or Public Athletic Field.

B. A Medical Marijuana Grow Site or a Recreational Marijuana Producer must possess a valid business registration in accordance with Chapter 8 of the Independence Municipal Code, Article XII, Marijuana Facilities.

C. A Medical Marijuana Grow Site or a Recreational Marijuana Producer may not include a Drive-Through Facility.

53.025 Standards for Conditional Uses

An application for a conditional use in the Agricultural Zone shall be approved only if the conditional use is approved pursuant to Subchapter 71 of this Independence Zoning Ordinance and the following conditions are found to exist:

A. The proposed use is consistent with the purpose of the Agriculture Zone as stated in this chapter.

B. The proposed use shall not interfere with adjacent farm uses.

C. The proposed use is consistent with the applicable overlay zones.

53.030 Prohibited Uses

It shall be unlawful to erect, alter, maintain or establish in an Agriculture Zone any building, use or occupancy not permitted or allowed in the foregoing provisions, excepting existing nonconforming uses, which may continue as provided in Section 10.055. Subdivisions are not consistent with the purpose and intent of this zone and are hereby declared to be prohibited activities and uses in this zone.

53.035 Land Divisions

The division of land in an Agriculture Zone is discouraged as not consistent with farm use practices, but the Planning Commission may permit the division of land after holding a public hearing. The Commission shall consider:

A. If a residential use permitted will seriously interfere with the usual and normal farm practices on adjacent agricultural lands (such as hazardous pesticide and herbicide applications, noise, dust, smoke and offensive odors).

B. If the proposed division of land will materially alter the stability of the overall land use pattern of the area.

C. If the land is generally suitable for the production of farm crops and livestock, as conducted in that area, considering the terrain, soil or land conditions, drainage, and flooding, vegetation, location, and size of tract.

An affirmative decision may be granted only if either the following conditions are found to exist:

A. The division is for the purpose of expansion or consolidation of adjoining farming activities.

B. The division is for the purpose of establishing a labor intensive agricultural activity meeting, the definition of farm use as contained in ORS 215.203.

The Commission may attach appropriate conditions in the granting of an application, including the minimum size of the tracts and future redivisions.

53.040 Parcel Area

The minimum area for a parcel shall be determined by the Planning Commission, as set forth in Section 53.035. This restriction shall also apply to contiguous parcels of land under one ownership, whether or not previously platted which contiguous parcels shall be considered as single unit of ownership.

53.045 Yards

The minimum requirements for front, side and rear yards shall be as follows:

Minimum front yard dept: 20 feet (6.21 meters)

Minimum side yard depth:

- Yard not adjoining street: 5 feet (4.5 meters)
- Yard adjoining street: 10 feet (9.14 meters)

53.050 Height

There are no height restrictions in an Agriculture zone.

53.055 Parking Requirements

Parking space requirements shall conform to the requirements set forth in Chapter 73.

SUBCHAPTER 54: BUFFERING, SCREENING, LANDSCAPE AND ASH CREEK SETBACK REQUIREMENTS

54.005 Applicability.

A. All development within the city, except for single-unit dwellings or duplexes in residential zones, is required to be buffered, screened and landscaped in accordance with the provisions of this Subchapter. Development shall mean land use, limited land use, building permit, or development permit applications of any kind or the erection, or construction of buildings, structures, parking lots and streets and roads in all zones.
B. All planting materials, species, sizes and installation details shall be in substantial conformance with the Independence Urban Forestry Management Plan. The requirements of this subchapter are in addition to any yard setback requirements or other requirements contained in the zoning or city code.
C. Maintenance. Property owners are required to maintain the buffered, screened or landscaped areas including necessary watering, weeding, pruning, and mowing. Trees and shrubs may be trimmed or removed for health or safety reasons but shall be replaced with suitable landscaping materials.
D. Irrigation. All landscaped areas shall be irrigated by an underground system except for dwelling structures containing less than four units or unless a licensed landscape architect certifies that the landscaping will likely survive without irrigation. Suitable watering facilities or irrigation systems must be included in or near all planted areas.
E. Site Improvements. The property owner is responsible for the maintenance of the site improvements including re-striping parking stalls and ensuring the preservation of the clear vision area.
F. Submission of landscape plans. Landscape plans, including any required buffering and screening, shall be submitted and reviewed as part of the Site Design Review application process (see Subchapter 80).
G. Alternative Plans. The requirements of this ordinance may be reduced or eliminated when the following alternative means of providing the required landscaping exist:

    1. Existing Screening. Where the abutting use has provided buffering in compliance with this section, no further buffering or screening need be provided.
    2. In lieu of these standards, the property owner may submit a detailed plan and specifications for landscaping and screening, as part of a Site Design Review application, including plantings, fences, walls, walks and other features designed to afford the degree of desired buffering. The city shall review the alternative plan based on standards contained in this subchapter.

H. Permit Issuance.

    1. Occupancy permits may be issued prior to the complete installation of all required landscaping if security equal to 120% of the cost of plant materials and labor as determined by the approval authority is filed with the city assuring such installation within a time specified by the City, but not exceeding six months after occupancy.

2. Security may consist of a faithful performance bond payable to the city, cash, certified check, time certificate, or deposit, or assignment of savings account and the form shall meet with approval of the City Attorney.
3. If the installation of the landscaping is not completed within the period specified by the City, the security may be used by the city to complete the installation. Upon completion of the installation, any portion of the remaining security deposited with the city shall be returned. The final landscape inspection shall be made prior to any security being returned. Any portions of the plan not installed, not properly installed, or not properly maintained shall cause the inspection to be postponed until the project is completed or cause the security to be used by the city.

54.010 Buffering and Screening Requirements.

A. A buffer consists of a horizontal distance adjacent to the property line, which may only be occupied by screening, utilities and landscaping materials.
B. Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:

1. Planting Area: Width not less than fifteen (15) feet, planted with the following materials:

   a. at least one row of deciduous or evergreen trees staggered and spaced not more than fifteen (15) feet apart;
   b. at least one row of evergreen shrubs which will grow to form a continuous hedge at least five (5) feet in height within one (1) year of planting; and
   c. lawn, low-growing evergreen shrubs or evergreen ground cover covering the balance of the area.

2. Berm Plus Planting Area: Width not less than ten (10) feet, developed in accordance with the following standards:

   a. Berm form should not slope more than forty (40) percent (1:2.5) on the side away from the area screened from view. The slope for the other side (screened area) may vary.
   b. A dense evergreen hedge shall be located so as to most effectively buffer the proposed use.

3. Wall Plus Planting Area: Width must not be less than five (5) feet developed in accordance with the following standards:

   a. a masonry wall or fence not less than five (5) feet in height; and
   b. lawn, low-growing evergreen shrubs, and evergreen ground cover covering the balance of the area.

4. Other methods which produce an adequate buffer considering the nature of the impacts to be mitigated, may be used, as approved by the Planning Commission.

C. Screening shall be used to eliminate or reduce the visual impacts of the following:

1. service areas and facilities, including garbage and waste disposal containers, recycling bins and loading areas;
2. outdoor storage and outdoor display areas;
3. parking areas of 6 or more vehicles for a multiple-unit, mixed-use or commercial development, when the parking is directly adjacent to a single-unit home, duplex, townhouse, or residential zone and the screening can be used to screen the adjacent residential use from the parking area;
4. parking areas for 30 or more vehicles for industrial uses;
5. at and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners; and
6. any other area or use as required by this Ordinance.

D. Screening of shared storage facilities for trash and recycling receptacles that serve more than one dwelling and all outdoor storage facilities for trash and recycling for commercial and industrial uses shall meet the following standards:

1. The storage facility shall be screened by a wall, solid fence, or evergreen hedge. The screen must be at least 4 feet in height and located no more than 3 feet from the storage facility.
2. The storage facility must be separated from residences on abutting properties and from the street lot line by at least 5 feet.
3. The storage facility shall not be located between the front lot line and a structure. The facility shall be located in an alley where one exists.

E. Other screening required under this section shall meet the following standards:

1. Any facility or feature that requires screening, other than those listed in 54.010(D) shall be screened from view from residences and neighboring streets by a wall, solid fence, or evergreen hedge that is of a minimum height of at least one foot taller than the facility or feature being screened. Solar collecting panels are exempt from this requirement.

F. When a required screen or buffer is adjacent to a street, the required fence structures shall be located so that the landscaped portion of the buffer is oriented toward the right-of-way.

54.015 Types of Landscaping Required. Required landscaping within the buffer shall consist of the following:

A. Shade Trees. Deciduous trees capable of at least 25 feet in height and spread at maturity, and not less than ten feet high and 1.5" caliper in size at the time of planting.

B. Evergreen Shrubs. Evergreens not less than two feet high and one-gallon size at the time of planting.

C. Ground cover consisting of lawn, low-growing evergreen shrubs, evergreen ground cover, organic mulch or rock mulch covering the balance of the property.

54.105 Ash Creek Setback Required.

A. There shall be a 25' greenway setback required along the banks of Ash Creek for all development except middle housing development (triplex, quadplex, cottage clusters, and townhomes). The 25' shall begin at the top of the bank or at the high-water mark, whichever is higher. There shall be no development within the required setbacks. Middle housing shall have a 100' setback, beginning at the top of the bank or at the high-water mark, whichever is higher.

B. Development for the purposes of this Subsection 54.105 means to construct or alter a structure, to erect a fence, to conduct a mining operation, to conduct filing, grading, paving, excavation or drilling operations, to make a physical change in the use of land, or to create or terminate rights of access. Development does not include placement of public or private bridges.

C. There shall be no affirmative duty to plant trees, shrubs or vegetation along said setback, although property owners shall be liable for nuisances created in any failure to maintain their property in a manner so as not to interfere with the health, safety and general welfare of the general public.

D. Nothing in this subsection shall prevent landscaping; reasonable emergency procedures necessary for the safety or protection of property; maintenance and repair

usual and necessary for the continuation of an existing use; or repair or maintenance of existing structure, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this subsection.

E. This subsection does not give the general public any rights of access across private property that does not otherwise already exist or may hereafter be granted by said private property owners.

54.205 Landscaping Requirements

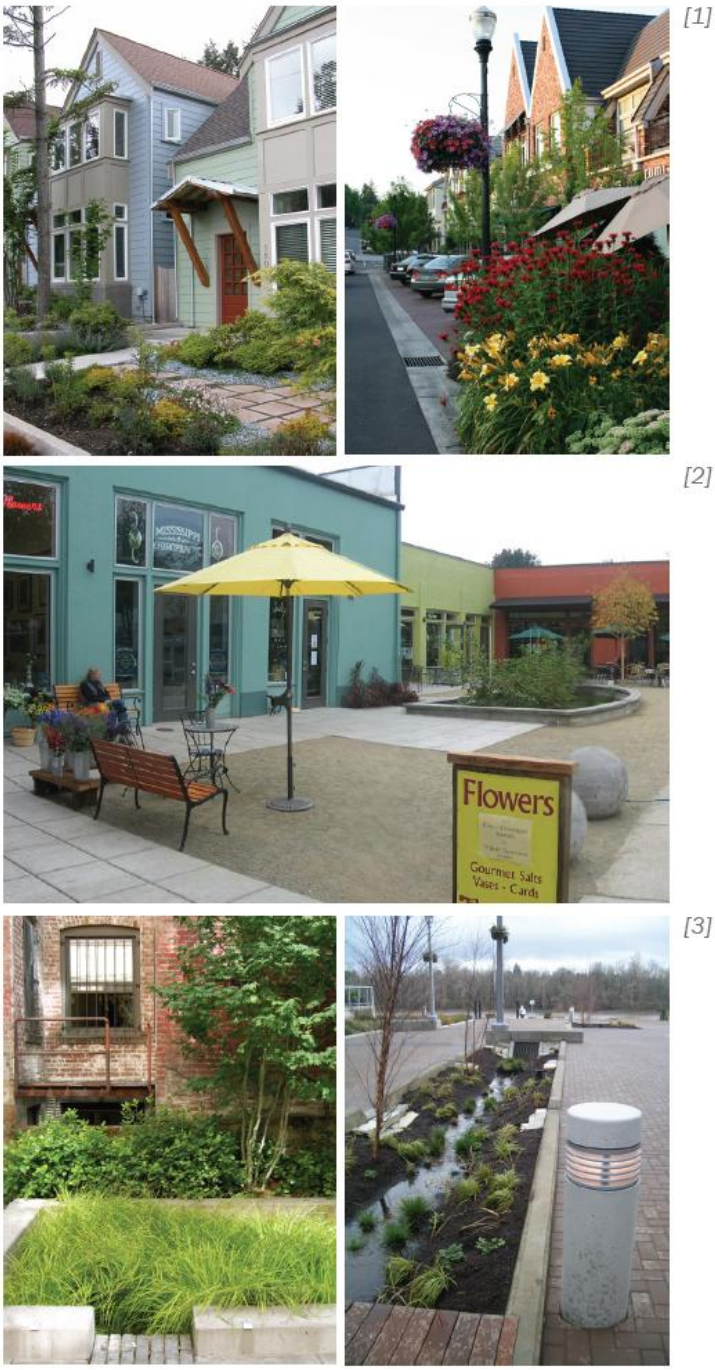
The following areas shall be landscaped in accordance with the requirements listed below. These requirements may be used in conjunction with the buffering and screening requirements listed in 54.010 above. The requirements in this subsection are not applicable to manufactured dwelling parks, which are regulated by Subchapter 61 of the Independence Development Code.

A. Site Landscaping Standards

1. Multiple-unit residential developments or dwelling structures containing five (5) or more units and are not cottage cluster development:

   a. A minimum of 20% of the gross site shall be landscaped. Landscaped areas may include ground cover, shrubs and trees for foundation planting, entrance plantings, parking island and perimeter plants.

   b. Each ground level unit, excluding manufactured homes, shall have an accessible outdoor private space of not less than 48 square



Site Landscaping. *[1] A minimum of 15% of the site for commercial, industrial and mixed use developments should be landscaped. A minimum of 20% of the site for multi-family developments should be landscaped. [2] Up to one-third of the landscape may be hardscape such as a walkway, plaza, or small gathering area [3] Whenever possible, stormwater detention and retention facilities should be incorporated into the landscape.*

feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents.

c. The standard in IDC 54.205(A)(1)(a) shall not apply in the Mixed-Use Pedestrian Friendly Commercial Zones or the Downtown Riverfront Zone.

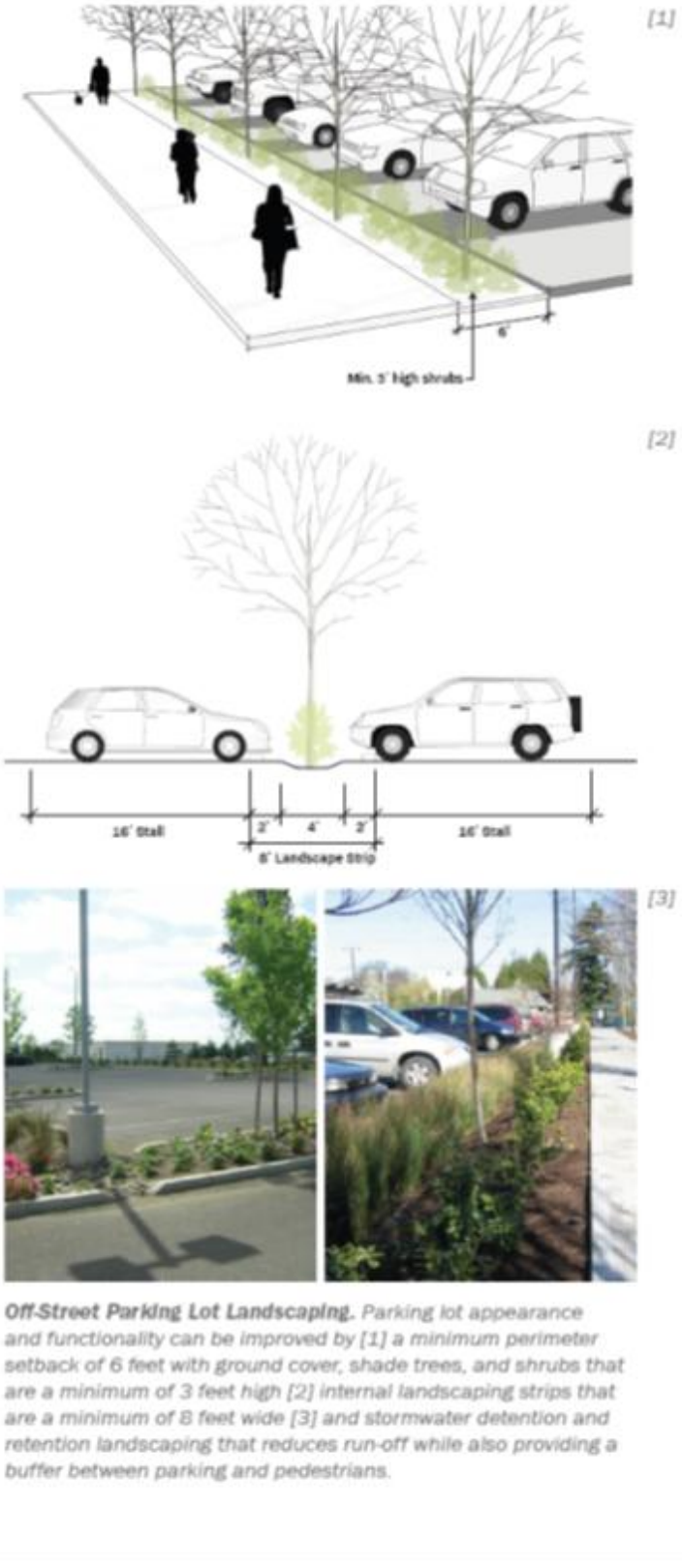
2. Commercial, Industrial and Mixed-Use Developments:

a. A minimum of 15% of the gross site area is required to be landscaped.
b. The standard in IDC 54.205(A)(2)(a) shall not apply in the Mixed-Use Pedestrian Friendly Commercial Zones or the Downtown Riverfront Zone.

3. Landscape Requirements. For developments that require a set percentage of the site to be landscaped:

a. Landscaping shall be provided in the form of a dedicated landscape zone that has at a minimum a rate of one (1) tree and three (3) shrubs per every 400 square feet of contiguous open space. Remaining area within the 400 square foot open space area shall be planted with ground cover, including grass, that fills the area after three (3) years.
b. Up to 30% of the landscaping requirement for the site may be dedicated to hardscape – walkways, plazas and small gathering areas. Every attempt shall be made to use permeable materials such as grasscrete, gravel, or previous asphalt.

4. Requirements for Additions.



Off-Street Parking Lot Landscaping. *Parking lot appearance and functionality can be improved by [1] a minimum perimeter setback of 6 feet with ground cover, shade trees, and shrubs that are a minimum of 3 feet high [2] internal landscaping strips that are a minimum of 8 feet wide [3] and stormwater detention and retention landscaping that reduces run-off while also providing a buffer between parking and pedestrians.*

a. Any addition to or expansion of an existing structure that falls within the standards in IDC 54.205(A) shall provide landscaping for the addition. To determine the amount of landscaping necessary, the applicant shall calculate the total area that will be covered by new impervious surfaces (whether parking spaces, loading areas or building footprint) and multiply the total by the proportion of landscaping required.
b. Landscaping to be installed for an addition or expansion may be spread over the entire site (original and addition or expansion projects) with the approval of the City.

B. Parking Lot Landscaping Standards. Parking lots that contain over ten (10) parking spaces are required to use curbed islands and landscape strips consisting of plantings therein to break up parking areas. The following landscape standards shall apply to off-street parking lots:

1. Perimeter landscaping

a. In all parking lots a minimum perimeter of six (6) feet shall be landscaped within the front and side yard setbacks to buffer the parking lot. Provided that, for parking lots with 20 or fewer parking spaces, the perimeter landscaping shall only be required next to an adjacent street. The six (6) foot wide strip shall be landscaped with:

i. Noninvasive ground cover (including grass),
ii. Shrubs that are a minimum of three (3) feet high after two (2) years and form a continuous screen, and
iii. Approved street trees that are a minimum a 2.5” caliper and are planted at a rate of one (1) every 25 feet.

b. A three (3) foot high wall or planter constructed of either concrete or masonry may be substituted for ground cover or shrubs to screen the sidewalk from parking.

2. Interior landscaping.

In parking lots that have more than ten (10) parking spaces, there shall be a minimum of 150 square feet of landscaping per every ten (10) spaces that includes two (2) shade trees for every ten (10) spaces. Any extra landscaping used along the perimeter of a parking lot or used for parking lot screening (per IDC 54.010(C)) can be used to help meet this requirement.

54.300 Appeal. The property owner may appeal a decision based on the requirements of this subchapter to the planning commission in accordance with the appeal procedures contained in Subchapter 11 of the Independence zoning code.

54.505 Severability. The sections of this ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

SUBCHAPTER 57: MURALS

57.005 Purpose and Scope

The purpose of this title is to permit murals on a content-neutral basis, while maintaining certain standards with respect to location, size, quantity, and installation. Murals comprise a unique medium of expression that serves the public interest. Murals have purposes different from signs and confer distinct benefits. Such purposes and benefits include: improving the aesthetics of a place; providing avenues for original artistic expression; allowing public access to unique works of art; offering community participation in the creation of original works of art; and reducing the incidence of graffiti and other crime. Murals can increase community identity and foster a sense of place.

57.010 Exemptions

The mural standards and review processes contained herein shall not apply to City of Independence sponsored projects.

57.020 Definitions

For the purposes of this Subchapter, the following mean:

Applicant

> "Applicant" means the party that is primarily responsible for the design and installation of a mural.

Mural

> "Mural" means a hand-painted, hand tiled, or digitally printed image on the exterior wall of a building or structure where the wall or surface is either on City-owned property, or has a mural agreement, and is viewable from another property or right-of-way. Visual art that is intended to communicate an informational message or for advertising purposes is not considered a mural for the purpose of this Chapter, and is regulated by the sign code, IDC Subchapter 58.

Mural agreement

> "Mural agreement" means an agreement granted to the City by a property owner and recorded by the City Recorder for the purposes of installing and maintaining a mural on a building or structure.

Mural committee

"Mural committee" means the Planning Commission, when assembled to review a mural application, based on the criteria established herein; or, the Historic Preservation Commission, when assembled to review a mural application for a mural proposed to be applied to a building in the Independence Historic District.

Owner or property owner

"Owner" or "property owner" means the entity(ies) or person(s) that own(s) the real property that contains the building or structure on which a mural is installed. In cases when a mural is installed in right-of-way, the owner includes the entity(ies) with jurisdiction over that right-of-way.

57.030 Violation, Notice and Enforcement

A. It is unlawful to violate any provision of the Mural Code, or any of the representations made, or conditions or criteria agreed to in a mural permit application or agreement.
B. The City Manager, or designee, shall give written notice of any violation to the property owner. Failure of the property owner to receive the notice of the violation does not invalidate any enforcement action taken by the City.
C. The regulation of the Mural Code, and the conditions of mural permit approval(s), shall be enforced by the City Manager, or designee.
D. Violations of this Subchapter are hereby declared a nuisance and are subject to notice, abatement, removal or other remedies provided in the Independence Development Code Subchapter 100 and Independence Municipal Code Chapter 14.

57.040 Allowed Mural Locations

A. Zones. Murals are allowed on buildings or structures in all zones, except the following: Low Density Residential (RS); Medium Density Residential (RM); High Density Residential (RH); Mixed Density Residential (MX), except when located on a common building for an apartment complex or similar development; or in a Neighborhood Commercial Overlay Area established under IDC Subchapter 47.

B. Historic District. Murals are allowed on buildings or structures within the Independence Historic District, except on unpainted brick or when the mural would cover or obscure a historic element or detailing on a historic structure. When functioning as the mural committee for the Independence Historic District, the Independence Historic Preservation Commission shall ensure that murals meet the standards of this section.

57.050 Mural Standards

The following standards shall apply to mural permit application requests:

A. Compatibility with Community Character. A mural shall be compatible with the aesthetic appearance of adjacent buildings and the surrounding community character.

In evaluating this criterion, some of the following factors may be considered to determine compatibility: whether the mural is harmonious with or integrates components of the City of Independence's history, geography, natural environment, or local culture; whether the mural reflects local history, regional commerce, local agriculture, local landscapes/ecosystems, or other similar subjects; or whether the mural complements the character of the surrounding structures.

B. Compatibility with Building Character. A mural should be consistent with the scale, color, details, materials, and proportion of the building or structure, and shall not obstruct the normal, intended functioning of any building or structure opening, including, but not limited to windows, doors, and vents.

C. Allowed Surfaces. A mural shall be proposed for an area with a generally smooth surface. Corrugated or highly textured materials are generally not appropriate for murals, though exceptions can be made when the applicant has demonstrated that the mural has been designed to account for the nature of the surface.

D. Designed for Longevity. A mural shall be designed to be lasting and include considerations regarding the location, surfaces and proposed materials that will be used, including strategies to help reduce the likelihood of damage due to weather or vandalism.

E. Lighting. A mural may not consist of, or contain, electrical or mechanical components or changing images; i.e., moving structural elements, flashing or sequential lights, lighting elements, or other automated methods that result in movement, the appearance of movement, or change of the mural image or message. Static illumination, which is turned off and back on not more than once every 24 hours, is permitted.

F. The mural permit application shall identify whether the mural is an original work of art, or, if necessary, shall identify and provide any applicable copyright materials or documents related to the artwork.

G. The mural shall not be a "sign" as defined under IDC Subchapter 58.

H. Prohibition on compensation. No compensation shall be given or received for the display of murals or for the right to place a mural on another's property. The applicant shall certify as part of the permit application that no compensation has or will be given or received for the display of the mural or the right to place the

mural on the property. This does not include compensation for the artist's time or materials.

57.060 Mural Permit Review Process

The following review process shall apply for a mural permit:

A. Application. An applicant shall initiate a mural permit application by filing an application with the City. The application shall be made on forms provided by the City and include the following materials deemed necessary for the review of the proposal:

1. Details about the mural including:

    a. A depiction of the mural.
    b. A description of how the mural addresses the mural standards under IDC 57.050, considering the criteria and factors identified therein.
    c. The proposed dimensions of the mural.
    d. Photos that demonstrate the existing character of the building including the material on which the mural will be installed.
    e. Plans for the preparation of the wall surface for the mural, including any methods to attach material to the wall.
    f. Proposed materials and maintenance strategies that will be used for the mural, including any anti-graffiti and/or UV coating, to ensure the longevity of the mural.

2. Details about the artist including samples of existing work and comparable projects.

3. Details about the length of time that the owner plans for the mural to remain in place.

4. If applicable, a signed agreement, or other acknowledged proof or attestation from the owner of the building or structure proposed for the mural, indicating that the owner is willing to execute a mural agreement, as provided for under Section 57.070.

5. Any fees required by the City fee schedule for the review of the application.

B. Review. The mural committee, as defined herein, shall review a complete mural permit application in accordance with the following process.

1. Review Process

    a. A public hearing shall be held for the application.

b. Notice of the public hearing shall be posted on the project site twenty (20) days in advance of the hearing.

2. Review Criteria. For approval, a mural permit application must meet the following criteria:

a. Compliance with Mural Standards. The mural shall comply with the standards as outlined in Sections 57.040 and 57.050, including consideration of the compatibility factors identified therein.
b. Scale. The mural will be appropriate to the scale of the wall, or surface, upon which the mural will be painted or attached and to the surrounding physical features.
c. Structural and Surface Stability. The mural will occur on an appropriate surface and the applicant has made a commitment to prepare the mural surface as necessary before painting.
d. Media. The media proposed is appropriate to ensure the mural's longevity and durability and there is a plan for mitigating graffiti or UV rays through design or UV/graffiti coating.
e. Property Owner Commitment. The building or structure owner is willing to execute a mural agreement to keep the mural in place and maintained for an agreed upon length of time. Proof of the owner's willingness shall be shown by signed agreement, or other acknowledged proof or attestation.

3. Approval

a. Authority. The mural committee shall have the authority to determine if an application for a mural permit meets all the applicable Mural Code review criteria and to issue a final approval, approval with conditions, or denial.

b. Notice of Decision. The City Manager, or designee, shall issue the notice of decision in writing and mail the decision to parties with an interest in the decision.

C. Suspension or Revocation. The mural committee, City Manager or designee, may suspend or revoke a permit issued under this Chapter, if it is determined that the mural permit holder or owner of the building or structure of the mural supplied incorrect information, which was the basis for the permit issued, or the permit is issued in violation of any other applicable City code or regulation.

D. Expiration of Permit. If the permitted mural is maintained in good condition and remains consistent with the terms of the approved permit application, the mural permit shall exist for the life of the mural. The permit shall expire if the mural is

altered or removed in any way, or if the mural is not completed within one (1) year of issuance of the permit decision.

E. Appeals. The decision regarding the approval, approval with conditions, or denial of the mural application may be appealed by filing a written request to the Independence Community Development Department within twelve (12) days of the date on the notice of decision. Appeals should state the basis for the appeal, along with the relevant citations from this section that serve as the basis for the appeal. The decision shall be considered by the Independence City Council during a regularly scheduled Council meeting.

57.070 Mural Agreement

A. Mural Agreement. Following the approval of a mural for a property and the expiration of the appeal period, the City, owner, and mural artist shall develop a mural agreement for the proposal. The agreement shall include provisions related to the following items:

1. Maintenance and Duration. The agreement shall include provisions that articulate the expected duration and maintenance of the mural. To assist with the details of the agreement, the artist(s) shall develop a maintenance program in cooperation with the property owner for proper long-term care of the mural.

2. Alteration. The agreement shall specify that any alteration to the mural shall require re-review under Section 57.080.

3. Removal. The agreement shall specify needed conditions for the removal of the mural and the responsible party. The following circumstances may allow for the mural's removal:

    a. The property on which the mural is located is sold.
    b. The building, structure or property is substantially remodeled or altered in a way that precludes continuation of the mural.
    c. The property undergoes a change of use authorized by the Independence Planning or Building Departments.
    d. The property is subject to another unforeseen circumstance, when determined appropriate by the City Manager.

4. VARA Waiver. The agreement between the parties shall include a waiver, signed by the artist, of all rights of attribution and integrity under the Visual Artists Rights Act.

57.080 Alterations

Alterations of a mural require re-review by the mural committee and include any change to a permitted mural, including, but not limited to, any change to the image(s), materials, colors, or size. Alterations do not include naturally occurring changes to the mural caused by exposure to the elements or the passage of time. Minor changes that result from the maintenance or repair of the mural shall not constitute an alteration. Such minor changes may include slight and unintended deviation from the original image, colors, or materials that occur when the permitted mural is repaired due to the passage of time or because of vandalism.

57.090 Inspections

A. The City Manager, or designee, may inspect murals for which a permit has been issued. Inspections may occur whenever necessary to determine compliance with City Code or permit, to enforce any provision of the City Code, or whenever there is reasonable cause to believe there exists a violation of City Code or permit.

B. If conducted, the inspection shall verify that the mural is in conformance with the application and provisions of this subchapter. If required, structural inspections shall be completed in conjunction with any required building or structural permits and shall verify the applicable requirements from applicable codes. The inspector shall take at least one photo, which will be kept on file for the permit application, to document the site, mural size, location, and consistency of the image with the application.

SUBCHAPTER 58: SIGN ORDINANCE

58.005 Purpose

The City Council of the City of Independence, Oregon, finds and declares that, in order to protect the health, safety, property and welfare of the public and to improve the neat, clean, orderly and attractive appearance of the community it is necessary to regulate the construction, erection, maintenance, electrification, illumination, type, size, number and location of signs.

58.010 Scope

No person shall erect, construct, enlarge, alter, move, improve, convert, equip, use, or maintain any sign, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Sign Ordinance. No person in control of any premises within the City of Independence, Oregon shall permit thereon any sign which violates the provisions of the Sign Ordinance.

58.015 Definitions

For the purpose of this subchapter, words used in the present tense include the future, the singular number includes the plural, the word “shall” is mandatory and not directory and the word “building” includes “structures” except “sign structures”. Any definitions included herein take precedence over the Uniform Sign Code definitions.

Area

> “Area” means the area contained within lines drawn between or around the outermost points of a sign, including Cutouts, but does not include Essential Sign Structure, foundations or supports. The area of a sign having two display surfaces facing in opposite traffic directions shall be computed by measuring the largest face. For signs having two or more display surfaces, the area is the maximum area of the surfaces that can be seen from any one point.

Awning

> “Awning” means a temporary shelter supported entirely from the exterior wall of a building.

Banner Signs

> “Banner Signs,” as used in this ordinance, shall mean and include every type of decoration or banners displayed over or upon the city streets of the City of Independence on a temporary or seasonal basis, whether attached to utility poles or any other structure.

Billboard

"Billboard" means an advertising sign with sign height over ten feet from the ground surface, on which same is located, to the top of such Billboard, and sign area greater than seventy-two (72) square feet, on which the copy is designed to be periodically changed and which is not located on the premises to which such advertising copy pertains.

Bulletin Board

"Bulletin Board" is a public service display for temporary messages.

Canopy

"Canopy" is a structure, other than an Awning, made of cloth or metal with frames attached to a building and carried by a frame supported by the ground or sidewalk but shall not mean a completely enclosed structure.

Changing Image Sign

"Changing Image Sign" is any sign which results in movement, the appearance of movement or change of sign image, text, or display through the use of: (a) moving structural elements; (b) flashing or sequential lights; (c) lights in a dot matrix or LED configuration, which may be changed intermittently; or (d) other automated method, results in movement, the appearance of movement or change of sign image, text, or display.

Cutout

"Cutout" means every type of display in the form of letters, figures, character, representations or others in Cutout or irregular form attached to or superimposed upon an advertising sign.

Directional and Safety Sign

"Directional and Safety Sign" means any sign intended solely for directing and establishing the safe and orderly passage of pedestrians and/or vehicles.

Display Surface

"Display Surface" means the area made available by the sign structure for the purpose of displaying a message.

Erect

"Erect" means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of Wall Signs.

Essential Sign Structure

"Essential Sign Structure" is a reasonably minimal physical structure whose sole purpose is to adequately support the sign and which does not contain any message, light, or configuration which is intended to inform or attract the attention of the public. Sign structures which do not comply with this definition are considered as part of the sign for the purpose of computing sign area.

Freestanding Sign

"Freestanding Sign" means a sign supported by one or more columns, uprights or braces in or on the ground, not attached to or forming part of a building.

Grade

"Grade" means the elevation or level of the street measured at the center line of the street that the sign faces.

Ground Sign

"Ground Sign" means any sign supported by one or more uprights or braces placed upon the ground and not attached to any building, limited to 5 feet in height.

Height

"Height" means the distance between Grade and top of sign structure.

Illuminated Sign

"Illuminated Sign" means a sign illuminated by an interior or exterior light source, which exterior light source is primarily designed to illuminate such sign.

Incombustible Material

"Incombustible Material" means any material which will not ignite at or below a temperature of one thousand two hundred degrees Fahrenheit and will not continue to burn or glow at that temperature. Test for an Incombustible Material shall be conducted as specified in the Uniform Building Code.

Integrated Shopping Center

"Integrated Shopping Center" means a premises planned and developed as a unit, which has an undivided or non-segregated parking area, that is advertised as a center and which has multiple occupancy.

Marquee

"Marquee" shall include any hood of permanent construction projecting from the wall of a building above an entrance and extending over a thoroughfare.

Nonstructural Trim

"Nonstructural Trim" means a molding, batten, cap, nailing strip, lattice, letter walkway attached to a sign structure.

Obscene Sign

"Obscene Sign" is a sign which contains words or pictures in which the dominant theme, taken as a whole, appeals to the prurient interest in sex or is patently offensive because it affronts the contemporary community standard relating to the description or representation of sexual material which is without redeeming social value.

Off Premise

"Off Premise" means any sign, including but not limited to, a painted sign, Temporary Sign, permanent sign or outdoor advertising sign or Billboard, which sign advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities or not located on the premises on which the sign is located.

Pole Sign

"Pole Sign" includes any sign supported by one or more uprights or braces placed upon the ground and not attached to or forming part of a building.

Projecting Sign

"Projecting Sign" means a sign other than a Wall Sign which projects beyond the building face to which it is attached.

Projection

"Projection" means the distance by which a sign extends over public property or beyond the building line.

Reader Board

"Reader Board" means any sign not permanently attached to the ground or building and capable of being moved from place to place, including signs attached to vehicles and trailers.

Roof Sign

"Roof Sign" shall mean a sign erected upon the roof.

Scroll or Scrolling

"Scroll" or "Scrolling" means the changing of a sign text or display by the apparent vertical movement of the visual image, such that a new visual image appears to ascend or descend and disappear from the margins of the sign in a continuous or unfurling movement.

Seasonal Sign

"Seasonal Sign" is a Temporary Sign relating to the celebration or observance of a holiday or special event placed at or around the time of the holiday or special event and removed within a reasonable time thereafter.

Non-

Static Display

"Static Display" is sign text or display which does not change.

Temporary Sign

"Temporary Sign" means any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, plywood, wood, wall board, plastic, sheet metal or other similar light materials with or without frames, which is not permanently erected or permanently affixed to any sign structure, sign tower, or building and which is not an electric sign or an internally Illuminated Sign.

Time and Temperature Sign

"Time and Temperature Sign" means an electronically controlled time and temperature display.

Travel

"Travel" means the changing of a sign text or display by the apparent horizontal movement of the display.

Uniform Sign Code

"Uniform Sign Code" means the Uniform Sign Code as adopted by the City of Independence, Oregon.

Video Sign

"Video Sign" means a sign providing information in both a horizontal and vertical format (as opposed to linear), through use of pixel and sub-pixel technology, having the capacity to create continuously changing sign copy in a full spectrum of colors and light intensity.

Wall Façade for Signs

"Wall Façade for Signs" means a sign structure designed for the placement of principal or secondary signs and erected upon the top of a wall or on a wall or parapet of a building in the same general plane as the wall.

Wall Sign

"Wall Sign" means a sign which is painted on or attached to or erected against the wall, window, or parapet of a building or structure or against the faces or ends of a Marquee or CanoFlapy or on a Wall Façade for signs with the exposed face of the sign in a plane parallel to the plane of said wall or face and projecting not more than 12 inches therefrom. Wall Sign also means and includes principal or secondary sign erected in supporting or ornamental columns attached to and located under an overhanging roof, which sign is erected in a plane generally parallel to the nearest face of the building.

Window Sign

"Window Sign" means a sign that is applied to, attached to, or located within the interior of a window.

58.020 Permits Required, Information Required in Application.

It shall be unlawful for any person to Erect, alter or relocate within the City any sign without first obtaining any required sign permit from the City Manager or designee and paying any fee required by Section 58.035 hereof or to Erect a sign not specifically authorized by this ordinance. Applications for sign permits shall be made upon forms provided by the City Manager or designee. The City Manager or designee may require the filing of sufficient information to determine compliance with the Sign Ordinance and the zoning ordinance.

58.025 Permit Issuance.

It shall be the duty of the City Manager or designee, upon the filing of an application for a permit, to examine such plans and specifications and other data and the premises upon which it is proposed to Erect the sign or other advertising structure and, if it shall appear that the proposed structure is in compliance with all the requirements of the Sign Ordinance and all other laws and ordinances of the City, the permit shall then be issued.

58.030 Permit Void if Sign Not Erected Within 120 Days.

If the work authorized under a permit has not been completed within 120 days after date of issuance, the permit shall become null and void. If reasonable cause for extension is approved by the City Manager or designee, an extension may be granted.

58.035 Permit Fees.

Every applicant, before being granted a permit hereunder, shall pay to the City of Independence a permit fee for each sign or other advertising structure regulated by the Sign Ordinance. Said fees shall be established by resolution of the City Council.

58.040 Fee and Permit Exemptions.

The following signs shall be constructed, located, erected, displayed, and maintained so as to comply with all provisions and regulations of this ordinance, provided, however, that no fee and no permit or application will be required for such signs:

A. Temporary Signs for nonprofit organizations (58.155), temporary political signs not exceeding 4 square feet (58.160), and temporary Real Estate “for sale” signs not exceeding 4 square feet in residential zones or 32 square feet in commercial or industrial districts (58.165) when located on the owner’s property and not on any power poles, street sign or traffic poles, or upon any public property.

B. Professional name plates not exceeding two (2) square feet in area.

C. On-Premise Bulletin Boards not over ten square feet in area for public, charitable or religious institutions.

D. Signs denoting the architect, engineer or contractors engaged upon the project under construction when placed upon the job site and not exceeding 32 square feet in area.

E. Occupational signs denoting only the name and profession of the occupant in a commercial building, public institutional building or dwelling house, and not exceeding two (2) square feet in area, under limits of the Sign Ordinance.

F. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of Incombustible Materials and not to exceed 10 square feet in area.

G. Official traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary emergency or non-advertising signs as may be approved by the City Manager or designee.

H. Structures intended for a separate use such as phone booths, Goodwill containers, etc.

I. Temporary Signs not exceeding four (4) square feet.

J. Window Signs.

K. Historical site plaques.

L. Official flags of the United States of America, counties, municipalities, official flags of foreign nations, and flags of internationally and nationally recognized organizations.

M. Directional and Safety Signs.

N. Sandwich (A-frame) Board, Reader Board or Temporary Signs – provided that:

1. The height does not exceed 48 inches (30 inches if within 20 feet of an intersecting street).

2. The width does not exceed 30 inches (24 inches if within 20 feet of an intersecting street).

3. No more than one sign per business.

4. The sign is located immediately adjacent to the building or immediately adjacent to the curb and not on the sidewalk proper.

5. The sign is displayed only during hours when the business is open to the public.

6. The sign is located within a reasonable distance of the actual business and in no case more than one block away.

7. The sign is made by a person or firm that is lawfully established to manufacture and/or produce commercial signs including signs painted freehand.

58.045 Permit – Revocable at Will.

All rights and privileges acquired under the provisions of this ordinance or any amendment thereto, are mere permits revocable at any time by the City Council.

58.050 Revocation of Permits.

The City Manager or designee is hereby authorized and empowered to revoke any permit issued under §58.025, above, upon failure of the holder thereof to comply with any provision of the Sign Ordinance. Sign permits issued based on inaccurate information shall be null and void.

58.055 Construction Standards.

All signs shall be designed and constructed to withstand wind pressure loads and seismic loads and dead loads as required in the Uniform Sign Code.

58.060 Construction Standards for Temporary Signs.

All Temporary Signs shall be constructed to the following standards: All exposed parts of the sign shall be constructed of such materials or treated in such a manner that normal rainfall or other moisture shall not harm, deface or otherwise affect the sign.

58.065 Unsafe, Damaged, Obsolete, or Illegal Signs to be Removed and/or Repaired; Procedure for Removal by City.

All signs, including exempt signs, together with their supports, braces, and guys shall be maintained in a safe and secure manner. If the City Manager or designee shall find that any sign or other advertising structure regulated by Independence Sign Code is unsafe or insecure or has been constructed or erected or is being maintained in violation of the provisions of this ordinance or of the Uniform Sign Code, he shall give written notice to the permittee or owner thereof. If the permittee or owner fails to remove or alter the structure so as to comply with the standards herein set forth within 30 days after such notice, such sign or other advertising structure which is an immediate peril to persons or property [is] to be removed summarily and without notice by the City. Any cost incurred by the City shall be the responsibility of the property owner. Should the permittee or owner of the property fail to remove or alter the sign or advertising structure as directed, the permittee/owner shall become subject to punishment, upon conviction thereof, under the provisions of Section 58.240.

58.070 Changing Image Signs.

A) Location.

1) Changing Image Signs shall be allowed in all Industrial Zones (IH), (IL), (IP), the Public Service zone (PS), and the Mixed use Pedestrian Friendly Zone and Downtown Overlay Zone (MUPC).

2) Changing Image Signs are prohibited on property within the Independence Historic District, and on property abutting and adjacent to the Independence Historic District without approval from the Independence Historic Preservation District Commission.

3) One (1) Changing Image Sign is permitted per site or multi-tenant complex and shall only be allowed as part of a permanent Freestanding Sign or Wall Sign.

4) The Changing Image Sign portion of any Freestanding Sign shall be no higher than ten (10) feet above the existing ground level.

5) Changing Image Signs must be permanently mounted to the ground or a structure.

6) A double sided Changing Image Sign is permitted as part of a permanent Freestanding Sign.

B) Design Standards.

1) Maximum sign Area: 24 square feet.

2) Maximum height: Four (4) feet.

3) Maximum length: Twelve (12) feet.

4) A maximum of two (2) lines of text shall be displayed at once.

5) Scrolling text is not allowed

6) The sign shall only display letters, numbers and punctuation marks or an LED image, intended to convey a message in a narrative form. Said message shall be limited to advertising items available on the premises, conveying information pertinent to services provided on the premises, promoting community events and displaying time and temperature.

7) The sign may not be illuminated by a flashing light or a light that varies in intensity.

8) The sign may not have a Display Surface that creates the appearance of movement.

9) The sign must not operate at an intensity level of more than 0.3 foot-candles over ambient light as measured at a distance of 150 feet.

10) The sign must be equipped with a light sensor that automatically adjusts the intensity of the sign lighting according to the amount of ambient light.

11) The sign must be designed, constructed, and operated to freeze the display in one static position, display a full black screen or turn off in the event of a malfunction.

C) Change of Display

1) The actual change of display for a Changing Image Sign shall be completed in two seconds or less. Displays may change by fade or by instantaneous change from one display to another, but shall remain as a static display after completing the change, and, once changed, shall remain static for 30 seconds, per §58.070.B.8, above.

2) The use of dissolve, Travel and video display are prohibited. The display image may be depicted in full color.

58.120 Non-Conforming Signs.

If, at the time of passage of this Ordinance, a sign does not conform to the provisions of the Ordinance, said sign may be continued and maintained in reasonable repair. This "grandfather" status, however, shall not prevent the City from taking action where a clear and immediate threat to the public safety and welfare exists. Non-conforming signs, which are structurally altered, relocated, or replaced, shall comply immediately with all provisions of this ordinance. If a non-conforming sign is destroyed by any cause to the extent of more than 60 percent of its value, then and without further action by the Planning Commission, the sign shall be subject to all applicable regulations of the Sign Ordinance. For the purpose of this Ordinance, the value of any sign shall be the estimated cost to replace the sign in kind, as determined by the Building Inspector. Independence City Code Section 12.25.150(14)(g) supersedes and takes precedence over this section of the Independence Sign Ordinance.

58.125 Banner Signs.

A. Permits.

1. No person, firm, corporation, or association shall display or cause to be displayed over or upon the city streets of the City of Independence, Oregon, any Banner Signs without having first obtained a permit, said permit being subject to the approval and authorization of the Public Works Superintendent.

2. A request for a banner permit shall be on forms provided by the City and shall show the approximate location of the proposed installation or installations, height above street or sidewalk, location on pole or building, the approximate size of banner sign to be displayed; whether the banner sign is to be attached to utility poles, buildings or other structures, together with the date of installation and the date of removal.

3. Upon satisfactory evidence that all requirements of this ordinance have been fully complied with by the applicant, and upon satisfactorily showing that permission of the property owner has been obtained and that all conditions, rules, and regulations required by said property owner have been complied with, the Public Works Superintendent shall issue a permit

for the installation as requested, providing that, in his judgment, no other requirements or additional safeguards other than those mentioned herein, would be in the interest of the public safety.

B. Insurance Requirement.

The grantee shall file with the permit application a certificate of insurance naming the City of Independence and the property owner as additional insured at a minimum of $1,000,000 combined single limit bodily injury and property damage. Said insurance to be for the protection of any persons sustaining bodily injury or property damage resulting from the placement, maintenance, or removal of said Banner Signs.

C. Installation/Removal Requirements.

1. Banner Signs, other than those installed by utility company crews, are to be installed from a mechanical hoist or OSHA approved procedures and equipment, so that the individuals making installations do not have to climb utility poles.

2. The holder of a permit for a banner sign shall be responsible for the maintenance of said banner sign in a safe condition at all times and for its safe and prompt removal upon the expiration of the permit authorized or in the event said sign may become a hazard upon the public streets at any time.

3. Banners shall be prohibited as a permanent sign and are limited to 30 days, unless an extension is approved by the Planning Commission.

4. The City Manager or designee as well as the property owner involved, shall have the right to remove or cause to be removed any unauthorized, not maintained, improperly hung banners, or banners that are a hazard upon the public street without notice to the person, firm, corporation or association responsible for the display of the banner sign.

D. Private Commercial Advertising.

Section 58.125(A-C) does not apply to banners used for private commercial advertising that are contained wholly on private property. Other sections of the Sign Ordinance apply as appropriate.

58.130 Procedure for Obtaining Variance and Appeals.

Any person desiring a variance of the Sign Ordinance must first make application for a sign permit and have such permit denied or have the City Manager or designee fail to

issue the permit. The applicant may appeal the decision to the Planning Commission, with or without a request for a variance.

58.135 Jurisdiction and Power of Planning Commission.

The Planning Commission shall have the power and duty to hear and decide appeals by the sign permit applicant from a decision of the City manager or designee denying or failing to grant, vary or revoke a sign permit. The Planning Commission may also make recommendations to the Council for changes to the Sign Ordinance.

58.140 Appeals Without Petition for Variance.

In appeals to the Planning Commission from decision of the City Manager or designee denying a sign permit in connection with which no petition for variance has been filed, the Planning Commission's scope of review shall be limited to determining whether or not the decision is in accordance with the requirements of the Sign Ordinance and accordingly, affirm or reverse his decision. No variance from the requirements of the Sign Ordinance shall be granted or allowed. If the decision is reversed, a copy of said decision shall be forwarded to the City Manager or designee.

58.145 Appeals With Petition for Variance.

In appeals from decision of the City Manager or designee denying or refusing to grant a sign permit in connection with which the appealing party or any other interested party has filed a Petition for Variance, the Planning Commission shall have the power and duty to hear, decide and grant or deny the requested variance from the provisions or requirements of the Sign Ordinance. The Planning Commission shall follow the requirements of the Independence Zoning and Development Code pertaining to Variances, except that the Planning Commission shall also be required to find that the granting of the variance will not be contrary to the general objective of the Sign Ordinance of moderating the size, number and obtrusive placement of signs and the reduction of clutter. Variances can be granted under the variance procedures herein to alleviate unusual hardships or extraordinary circumstances which exist. The variance granted shall be the minimum required to alleviate the hardship or extraordinary circumstances and the hardship or circumstance shall not be self-imposed.

58.150 Prohibited Signs.

No sign shall be constructed or erected:

A. Which purports to be, or is an imitation of, or resembles an official traffic sign or signal, which bears the words "STOP", "GO SLOW", "CAUTION", "DANGER", "WARNING", or similar words.

B. Which, by reason of its size, location, movement, content, coloring or manner of illumination may be confused with or construed as a traffic control device; or which hides from view any traffic or street sign or signal.

C. Which are off-premise signs and Billboards which advertises or publicizes an activity, business, product or service not conducted on the premises upon which such signs are maintained.

D. Which rotates or has a rotating or moving part except those that conform to Section 58.125 of this ordinance and have all moving parts at least eight (8) feet above ground level. Rotating signs must conform to all sections of this ordinance including those relating to size and height restrictions. Reader Board signs shall not be allowed to rotate. Barber poles are excepted from this provision.

E. Which consists of banners, flags, posters, pennants, ribbons, streamers, strings or light bulbs, spinners or elements creating sound or smell which are signs defined by the code, except holiday decorations.

F. Which shall be located so as to substantially obstruct the view of a sign on adjoining property when viewed from a distance of 200 feet at any point four (4) feet above the roadway Grade of the traffic lane closest to the street property line.

G. Which shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision.

H. Which flash; except for signs conveying time, temperature, no sign shall be wholly or partially illuminated by an internal or external light source that is flashing or intermittent.

I. Wall graphics or murals except by permission of the City Council.

J. Signs attached to utility, streetlights, or traffic control standard poles or otherwise located in the public right-of-way without a permit.

K. Signs in a dilapidated or hazardous condition.

L. Signs on doors, windows, or fire escapes that restrict free ingress or egress.

M. Swinging signs.

N. Signs which focus or flash a beam of light into the eyes of a driver of a motor vehicle upon a street within 200 feet from such sign.

58.155 Temporary Signs for Nonprofit Organizations.

Temporary advertising signs, advertising picnics, bazaars, luncheons, breakfasts, etc., of churches, service clubs, fraternal organizations and other non-profit or charitable organizations, may be erected for a period not to exceed two (2) weeks before the event advertised. Each such sign shall confirm to all provisions of the Sign Ordinance. All such signs shall be removed by the sponsoring organization not later than five (5) days following the event. Any such signs which have not been removed within five (5) days after the event shall be removed by the City of Independence, and the sponsoring organization, or, if such cannot be found, the owner of the property upon which the sign was erected, shall be charged the cost of removing such sign.

58.160 Temporary Political Signs.

Temporary political signs, purporting to advertise candidates or issues, may be erected on private property, during the campaign for a period of 60 days prior to the election in which such candidates or issues are to be voted upon. Such signs shall conform to all other applicable provisions of the Sign Ordinance, and shall be removed not later than the fifth day following such election. Any such signs which have not been removed by the sixth day following such election may be removed by the City of Independence, and the owner of the property upon which the sign was erected shall be charged the cost of removing such sign. Such signs shall not exceed four (4) square feet in area.

58.165 Temporary “For Sale” Signs.

A temporary “For Sale” sign, not exceeding 4 square feet in area or a maximum dimension of four (4) feet, may be erected on private property, provided that it advertises the sale, lease or rental of only the property upon which it is erected. One additional “For Sale” or “Open House” sign limited to the same size may be placed on private property with consent of the person in possession of the property and outside of vision clearance areas.

58.170 Temporary Subdivision Signs.

A temporary subdivision sign may be erected upon a tract of land or a subdivision advertising the sale of the tract or the lots in the tract and not exceeding 42 square feet in area. The sign shall be reduced in size by six (6) square feet for each lot less than seven (7) in the subdivision.

58.175 Temporary Garage and Lawn Sale Signs.

Temporary advertising sign advertising a garage or lawn sale may be erected as provided under Independence City Code Sections 58.060, 58.180, and 58.185.

58.180 Specific Signs Permitted in any Residential Zone.

The following signs and no other are permitted in any residential zone:

A. One permanent Ground Sign for each subdivision or Planned Unit Development, not exceeding 24 square feet in sign area, five (5) feet in height or six (6) feet in length; or one Wall Sign not exceeding 32 square feet in area. Such sign shall denote only the name of the subdivision or Planned Unit Development. It shall be located only at the principal entrance to a subdivision or Planned Unit Development.

B. One permanent sign for apartment houses, rest homes, and churches which may be one Ground Sign not exceeding 24 square feet in sign area, eight (8) feet in height or six (6) feet in length or one Wall Sign not exceeding 24 square feet in area.

C. One permanent sign for a governmental agency or public utility subject to the Conditional Use Permit process in IDC Subchapter 17, on lots larger than one (1) acre in size and located along Highway 51, outside of the Downtown Overlay Zone. The sign shall not exceed 48 square feet in size, of which 24 square feet may be an electronic changing image sign, subject to the standards in Section 58.070.

58.185 General Requirements of Signs in any Residential Zone. Shall conform to the following requirements:

A. No sign shall be illuminated with or by a flashing or intermittent light source, except as provided in Section 58.180(C). All lights shall be directed away from and not be reflected upon adjacent premises. All illumination shall be indirect.

B. No permitted sign shall be animated, shall rotate, or shall contain moving parts, except as provided in Section 58.180(C).

C. Where a building fronts on two or more streets, the permitted sign shall be erected and maintained on or in front of the principal side of the building.

D. No Ground Sign shall be erected or maintained within seven (7) feet from back of sidewalk. If no sidewalk exists the sign shall be placed 25 feet from approximate centerline of abutting street. Permitted signs shall conform to all other location requirements of the Sign Ordinance.

58.190 General Requirements for Signs in Commercial and Industrial Zones.

A. Every business shall be allowed a total sign area, including both permanent and Temporary Signs, but excluding Directional and Safety Signs; of ¾ square feet per property frontage foot to a maximum of 150 square feet. If all signs are Wall Signs, a total of 1.5 square feet to a total maximum of 300 square feet are allowed. Signs in commercial and industrial zones shall also conform to the requirements of Section 58.070 and Sections 58.190 through 58.225.

B. In addition, every business shall be allowed a temporary display of signs and banners for special promotions provided that the promotional displays are used no more than one time per month and for no more than 10 consecutive days and do not exceed the area allotted in subsection (A).

58.195 Projecting Sign Requirements.

A. Distance. The minimum clearance from the Grade or sidewalk below to the lowest portion of the sign shall be eight (8) feet, except barber poles which may have a six-foot minimum. Barber poles may not project more than 18 inches from the building surface.

B. Height. The maximum height of the sign shall be not more than 25 feet from the level of the street. It must also not be more than three (3) feet above the top of the parapet wall or the roof line of the wall, whichever is higher.

C. Projection Limitation. Projection shall conform with Table 4 of the Uniform Sign Code.

D. Each business shall be allowed a maximum of three (3) Wall Signs.

58.200 Wall Facades for Signs.

A. Except as provided in subsection (B) of this section, Wall Façades for signs may extend the full length of the wall to which they are attached but shall not exceed a height above the roof line of the wall or the top of the parapet greater than four (4) feet.

B. If a Wall Façade for signs extends the full length of the wall, the maximum height of the Wall Façade shall not exceed four (4) feet measured from the roof line directly behind the wall to the top of the Wall Façade. If it is less than full length, there shall be fie (5) feet clearance at the end of a wall and such façade shall conform to the Uniform Building Code.

C. The supporting structure for all Wall Façades for signs shall be completely enclosed so as not to be visible from any public street, alley or adjacent property.

58.205 Limitation on Signs Attached to Marquees.

Signs attached to, or hung from a Marquee shall be completely within the borderline of the Marquee outer edge. Signs located on the faces of a Marquee shall be regulated as Wall Signs. Signs may be located under a Marquee if a vertical clearance of eight (8) feet is maintained between the sign and the Grade below. No supporting member of any sign suspended under a Marquee shall pierce or extend through the Marquee. Under-the-Marquee signs shall be limited to a vertical height of 14 inches and a maximum sign area of six (6) square feet.

58.215 Signs Permitted for Second Story Business.

Businesses maintained on the second floor of a two-story building, except businesses which also occupy all of a portion of the first floor, shall be entitled to fifty percent of the dimensions and distances set forth in this sign regulation, excepting no Projecting Signs shall be permitted above the second story of the building, unless otherwise provided in the Sign Ordinance.

58.220 Signs for Integrated Shopping Centers.

A. Signs permitted by this section shall be the only signs permitted in an Integrated Shopping Center. Specific permitted signs are:

1. One Freestanding Sign for the center for each street frontage on a designated arterial or designated collector street. The height of such sign is limited to 25 feet. The maximum height may be increased five (5) additional feet if the added portion is used solely for ornamental sign design and if it does not contain any advertising message or symbol. Portions of such sign used solely for ornamental sign design erected in the area above the principal portion of the sign and within the five (5) additional feet of maximum height permitted by this paragraph shall not be computed in determining sign area. Sign area of such sign is limited to 150 square feet.

2. Temporary promotional or sign displays for a center-wide promotion or event, to be removed immediately upon cessation of such event or promotion.

3. Directional signs identifying vehicle entrance and exists, limited to eight (8) square feet in area and four (4) feet in height.

4. On-premise directional sign limited to eight (8) square feet in area, designed primarily to be used only to identify and locate an office, entrance, exit, telephone or similar place.

5. Temporary Signs as provided in sections 58.150 through 58.475.

B. Special signs for individual businesses in Integrated Shopping Centers are:

1. One Wall Sign for each facing or frontage on a designated arterial or designated collector street or parking lot.

2. One under-Marquee sign for each frontage for each business.

58.225 Signs Within Setbacks.

Where the supporting member of any sign is to be erected within a special setback area established pursuant to the Independence Zoning and Development Ordinance, no permit shall be issued for such sign until the person who will own the sign and the owner of the premises upon which the sign will be erected, enter into a written agreement with the City of Independence, Oregon, providing for removal of such supporting member when necessary. The agreement shall provide that the sign owner and the owner of the premises, their administrators, executors, heirs, successors and assigns shall be jointly and severally liable for removal of the sign after 60 days written notice from the Building Official. Such notice shall be given by the City of Independence when necessary. The agreement shall further provide that if the persons responsible for removal of the supporting member do not remove it, the City of Independence may do so at expense of such persons and that the cost of expense may be a lien against such land or premises and may be collected or foreclosed in the same manner as liens entered in the docket of the City. The agreement shall also provide that the owner of the affected premises and the owner of the sign shall not be entitled to any damages or compensation on account of moving or removing of the supporting member or portion thereof. This provision shall not be construed as denying the owner of such property of the right to compensate for any land taken for the widening of any street. The agreement shall be acknowledged before an officer authorized to take acknowledgements to deeds and who is to authorize the same to be of record. The City of Independence shall cause such agreement to be recorded at the office of the county officer having custody of the deed records for Polk County.

58.230 Uniform Sign Code Still in Effect.

The provisions of the Uniform Sign Code, as adopted from time to time are still in full force and effect.

58.235 Periodic Review and Assessment.

The Code Enforcement Officer of the City of Independence will periodically review and assess the conformity of existing signs to this Ordinance.

58.240 Penalties.

Any violation of the provisions of this chapter shall be a violation of the Independence City Code and shall result in a restraining order, stop-work order or fine and any other remedy authorized by the laws of the State of Oregon. None of the remedies listed above shall be exclusive.

(Chapter 58 amended by Ordinance No. 1538, January, 2015)

SUBCHAPTER 59: HISTORIC PRESERVATION

59.10 Purpose

The City of Independence establishes this Historic Preservation Code to identify, recognize, and preserve significant properties that showcase the community's history; encourage the rehabilitation and ongoing upkeep of historic resources; strengthen public support for historic preservation efforts; and foster civic pride.

59.20 Applicability

A. Applicable. This subchapter applies to properties listed on the Independence Local Historic Register.

B. Exemptions. The standards do not apply to:

1. The ordinary repair and maintenance of historic Resources when such action does not involve a change in design, materials, or appearance.
2. Interior alterations which do not impact the exterior of a Resource.
3. The application of an exterior paint color, unless the exterior paint color is specifically noted in a Resource's Record of Designation or the application seeks to paint currently unpainted masonry on a historic Contributing or Noncontributing Resource.
4. The alteration of a landscape feature that is not specifically identified as historically significant in a Resource's Record of Designation or on the Independence Historic Tree List.

59.30 Relation to Other Codes

The Historic Preservation Code supplements the regulations in the underlying zoning district. Where the regulations and permitted uses for a zoning district conflict with those of the Historic Preservation Code, the more restrictive standards apply.

59.50 Changing the Local Historic Register

A. Purpose. The City uses the Local Historic Register to formally recognize, rate and protect its historic and architectural resources. The register identifies buildings, Sites, objects and districts of historical importance or architectural significance that are considered exemplary of their time and style. The following resources are included on the Local Historic Register:

1. The Independence National Historic District.

2. The Independence Historic Tree List.

3. Other Resources as designated pursuant to this code.

B. Procedure. After review pursuant to the procedures identified below by the Historic Preservation Commission, the City Council will review and make the final determination of designation or adopt any required legislative amendments to a historic District. For changes affecting Resources on the National Register of Historic Places or to the Independence National Historic District, approval by the State Historic Preservation Office, State Advisory Committee, and National Park Service are required.

1. Designation. Requests to designate historic Landmarks or districts are reviewed using the IDC Subchapter 11, Type III quasi-judicial or Type IV legislative procedures. The process is legislative when it affects a significant number of persons or properties.

2. Amendment to Existing Historic Districts. Changes or additions to the Period of Significance, the property rating structure, or the boundaries of an existing historic district are reviewed under an IDC Subchapter 11, Type IV legislative procedure.

3. Individual Property Re-Rating.

    a. Re-designation or removal of an individual property from the Local Historic Register requires an IDC Subchapter 11, Type III approval. When a property is on the National Register of Historic Places, the Historic Preservation Officer shall consult the State about the appropriateness of the re-designation before the public hearing, and receive state and federal approval of the re-designation after City approval.

    b. Re-designation of a demolished property. Demolition pursuant to IDC 59.100 also approves removal of the property from the Local Historic Register. Removal from the National Register due to Demolition requires submittal to and approval by the State Historic Preservation Office and the National Park Service.

C. Decision. All decisions, whether to approve or deny a request, must specify the basis for the decision.

59.60 Designation

A. Consent. A historic resource that is not currently designated on the Local Historic Register, may not be designated as a local historic resource without the written consent of the owner except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (per ORS 197.772).

B. Application Contents. In addition to complying with IDC 11.005, an application for the designation of a Resource must include the following information:

1. A written description of the boundaries of the proposed district or the location of the proposed landmark or property to be evaluated.

2. A map illustrating the boundaries of the proposed district or the location of the proposed landmark or the property to be evaluated.

3. A statement explaining the following:

    a. The reason(s) why the proposed district, landmark or property should be designated.
    b. The reason(s) why the proposed boundaries of the proposed district are appropriate for designation.
    c. The potential impact, if any, that designation of the proposed district or landmark would have on the owners, surrounding residents or other property owners in the area.

C. Designation Review Criteria. In addition to being at least fifty years of age, one of the following criteria must be met to approve a proposed Resource or District:

1. The proposed Resource or District has historic significance because:

    a. There is an association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;
    b. There is an association with an event that has made a significant contribution to the city, county, state, or nation; or
    c. There is an association with broad patterns of political, economic, or industrial history in the city, county, state, or nation.

2. The proposed Resource or District has architectural significance because:

    a. It is an example of a particular architectural style, building type and/or convention;
    b. It has a high quality of composition, detailing and/or craftsmanship;
    c. It is an example of a particular material and/or method of construction;
    d. The resource retains its original design features, materials and/or character;
    e. It is the only remaining, or one of a few remaining resources of a particular style, building type, design, material, or method of construction; or
    f. It is a visual landmark.

3. The proposed Resource or District is listed on the National Register of Historic Places.

59.70 Re-Rating or Removal Review

A. Application Contents. In addition to complying with IDC 11.005, an application for re-rating or removal must include photos and documentation that demonstrates:

1. The reason(s) why the District, Resource or property should be re-rated or removed.

2. The reason(s) why the boundaries of the district are appropriate for re-rating or removal.

3. The potential impact, if any, that re-rating or removal of the District or Resource would have on the owners, surrounding residents or other property owners in the area.

B. Criteria. The review body must find that one of the following criteria is met in order to re-rate or remove a Resource from the Local Historic Registry:

1. The inventory was in error.

2. Additional research has uncovered an association with a person, group, organization, institution or events that have made a significant contribution to the city, county, state or nation or additional research has been compiled regarding the architectural significance of a structure or style.

3. Alterations to the structure have caused it to more closely approximate the historical character, appearance, or material composition of the original structure.

4. Alterations to the structure have removed distinguishing features or otherwise altered the exterior such that the existing rating is no longer justified.

5. The reasons for designating the historic Resource no longer apply.

59.80 New Construction in Historic District

A. Procedure. Requests for new construction in a Historic District are reviewed using an IDC Subchapter 11 Type II quasi-judicial procedure.

B. Application Contents. In addition to complying with IDC 11.005, an application for new construction must include the following information:

1. A site plan that shows:

a. The setbacks of the proposed structure and the neighboring buildings.
b. The proposed vehicular and pedestrian access to the building.
c. The outbuildings for the use.

2. The proposed building elevations and how they relate to the scale of neighboring buildings.

3. Details about the proposed building materials that will be used for the project.

C. Criteria. To approve a request for new construction within a historic district, the Historic Preservation Commission must find that the request meets the following criteria as applicable:

1. Within Residential Districts or the Historic Residential Overlay Zone, or for Single-Family Residential Development in the MUPC/Downtown Overlay Zone:

a. The development meets the Residential Design Standards in Subchapter 19.

b. The structure is of similar Mass, size and Scale of surrounding buildings.

i. Scale, Mass and Proportion

- The building includes projections and building articulation that breaks the Mass of the building into smaller components.
- If a proposal attempts to create a larger structure than is found within the surrounding residential area, the proposal creates distinct building Masses that are similar in Scale to the neighboring single-family homes.

ii. Height

- The primary building façade is within the range of the Height of existing buildings on the block. Additional Height, up to the allowed

Height of the underlying zone may be allowed, if the Height is setback at least 10 feet from the primary building facade.

- Where a larger structure is proposed adjacent to a historic single-family home, the structure is stepped down in Height to the Height of the neighboring home.

iii. Yards

- New structures are set within the range of front and side yard setbacks for historic structures found on the same side of the block. If the historic range is less than the required setback for the underlying zone, the historic range of setbacks shall apply.

- If a proposal involves multiple parcels within the historic district, the development articulation must mirror the adjacent side yard setbacks to create the appearance of multiple single-family homes.

c. The development conforms to the existing neighborhood development patterns.

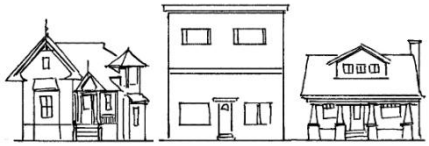
	THIS
Scale & Proportion	New buildings should relate in scale and proportion to adjacent historic buildings. 
Mass	Break up boxlike forms into smaller, varied masses using porches, windows, roof forms common on historic buildings. 
Height	Building height should be within the range of heights of area buildings. Step larger buildings down to smaller buildings. 

i. The front door of the building is oriented toward the street.

ii. Vehicular access points are oriented to the side or rear of the lot, unless:

- No alley exists and the proposal does not occur on a corner lot, or
- There is a compelling reason, as determined by the Historic Preservation Commission, why the access should not be located on the side or rear of the lot.

NOT THIS

Scale & Proportion	Avoid buildings that are too large or too small in scale or massing to adjacent buildings. 
Mass	Avoid single, monolithic forms that are not relieved by variations in mass. 
Height	Avoid construction that greatly varies in height from buildings in the same block. 

2. Within the Downtown Overlay Zone and Other Mixed-Use Pedestrian Friendly Commercial Zoning (Other than for Single-Family Homes):

a. The development meets the Commercial Design Standards in Section 33.030 and the Downtown Overlay Design Standards and Guidelines in Section 33.040.

b. The development aligns horizontal elements on the structure with the horizontal elements of adjacent buildings. Horizontal elements may include the alignment of lintels or other portions of window frames, awnings, sign bands, roof lines, and the transitional band between the first floor and upper floors.

c. The development complements surrounding neighborhood development patterns:

i. The front door of the building is oriented toward the street.
ii. The building is set on the front property line and the side property lines, unless there is a compelling reason, as determined by the Historic Preservation Commission, to not allow the building to be sited in that location.
iii. Parking is not placed in front of the building on the project Site.

59.90 Alteration or Addition to Structures

A. Application Contents. In addition to complying with IDC 11.005, every application for an exterior alteration or addition approval shall include information such as a site plan, building elevations, and photos of the existing structure which clearly show the intended alteration and resulting change to the appearance of the structure.

B. IDC Subchapter 11, Type I Alterations.

1. Applicability. This section applies to alterations to out-of-period structures or non-historic features of Noncontributing Resources within a historic district, so long as the alterations do not include an addition to the structure.

2. Criteria. To approve an alteration to a historic or out-of-period Noncontributing Resource, the Historic Preservation Officer shall find that the proposal meets the following criteria:

   a. Subject to the exception set forth below in 59.90.B.2.b, the modified exterior of the Noncontributing Resources meets the applicable commercial or residential design standards.

   b. If an applicant seeks to better reflect the structure's historical design and materials, and the historic design and materials conflict with an otherwise applicable residential or commercial design standard, the conflicting design standard may be waived.

3. Historic Preservation Review Required. Additions to a historic Noncontributing Resource or modifications that change a historic element of a Historic Non-Contributing Resource require Type II Historic Preservation Commission review under IDC 59.90.C.1. b. and d.

C. IDC Subchapter 11, Type II Alterations and Additions:

1. Applicability. This section applies to:

   a. Alterations to a Contributing Resource.
   b. Alterations to historic features of a Noncontributing Resource.
   c. Additions to individually Listed Resources.
   d. Additions to Resources within a historic District.

2. Criteria. To approve an application subject to this section, the Historic Preservation Commission must find that one of the following criteria has been met:

   a. The proposed alteration or addition will cause the Resource to more closely approximate the historical character, appearance or material composition of the original structure than the existing structure, or

b. The proposed alteration or addition is compatible with the historic characteristics of the area and with the existing structure in Massing, size, Scale, materials and architectural features. New additions that are visible from the front of a building shall meet the applicable standards for new construction listed in IDC 59.80.

3. Guidelines for Decision. The Secretary of the Interior's Standards of Rehabilitation, set forth below, shall be applied to rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

   a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
   b. The historic character of a property shall be retained and preserved. The removal of historic material or alteration of features and spaces that characterize a property shall be avoided.
   c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
   d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
   e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
   f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
   g. Chemical or physical treatments, such as sandblasting, that cause damage to historic material shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
   h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
   i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
   j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential

form and integrity of the historic property and its environment would be unimpaired.

59.100 Demolition or Relocation of a Listed Resource, or a Resource that is More than 75 Years Old in a Historic District

A. Procedure. Requests for the Demolition or Relocation of a Listed Resource or a resource older than 75 years in a historic district are reviewed using IDC Subchapter 11 Type II quasi-judicial procedures.

B. Application Contents. An application for the Demolition or Relocation of a Listed Resource or a Resource older than 75 years in a historic district must contain the following information:

1. A description of the previous and existing uses of the structure and the intended future use of the property.

2. A drawing showing the location of the building on the property and any other buildings on the property.

3. The overall Height of the building and the general type of construction.

4. A written statement addressing the review criteria and providing findings of fact in support of the request.

C. Criteria. To approve the Demolition or Relocation of the Resource, the Historic Preservation Commission must find that the request meets the following applicable criteria:

1. The proposal meets one of the following conditions:

   a. No prudent or feasible alternative to the Demolition or Relocation of the building exists.
   b. The building or structure is deteriorated beyond repair and cannot be rehabilitated on the Site to provide a reasonable economic return compared to other structures in the general area.
   c. There is a demonstrated public need for the proposed new use or development on the Site that outweighs any public benefit that might be gained by preserving the subject building(s).

2. If a development is proposed on a lot where the Relocation or Demolition will occur, details about the proposed development shall be submitted. The proposed development shall be compatible with the surrounding area and the standards for new construction in a historic District per IDC 59.80.

3. If a building or structure is proposed to be moved, the movement of the building to a Site within the historic district shall be preferred to the Relocation of the structure outside of the district.

D. Conditions. In approving an application for the Demolition of a Contributing Resource, the Commission may impose the following conditions:

1. Photographic, video or drawn recordation of the property to be demolished be submitted to the City.

2. Salvage and curation of significant elements occur.

3. Other reasonable mitigation measures.

E. Decisions/Appeals. Following a public hearing, the Commission may either approve the request or invoke a stay to the demolition. During the stay, the Commission will notify the owner of potential rehabilitation programs and benefits and encourage public or private acquisition and restoration of the landmark. The length of the stay will be no more than 180 days from the date of the decision. All decisions to approve, approve with conditions, or stay shall specify the basis for the decision. Decisions of the Commission can be appealed to the City Council.

59.110 Removal of Historic Tree

The City of Independence Historic Tree List has designated historic trees within the community. The location of the trees are mapped, adopted as part of this Code, and available upon request at the Independence Community Development Department. To approve the removal of a historic tree in the City of Independence via an IDC Subchapter 11 Type II procedure, the Historic Preservation Commission must find that:

A. A certified arborist has shown that the tree is a hazard, or the tree is causing damage to a commercial or residential structure; or

B. The proposed removal is necessary for the construction of roads, structures, or other site improvements and the applicant has demonstrated that there are no feasible and reasonable location alternatives and/or design options which would better preserve the tree on the Site, while providing the same overall level of design functionality.

59.120 Demolition by Neglect

A. Purpose. No owner of a Resource shall keep such building or Resource in a manner that promotes or allows deterioration, dilapidation and decay of any portion of the Resource, or that allows entry by unauthorized persons, in the manner described in B of this Subsection.

B. Standards. An owner violates the standards for the upkeep and preservation of Resources if the owner promotes or allows any of the following to occur to, or exist in, a Resource:

1. Faults, defects, or other conditions which render the building or Resource structurally unsafe or not properly watertight.
2. Deterioration of walls or support members due to failure to paint or otherwise maintain the building or Resource.
3. Failure to maintain parts of the Resource securely attached so as to not fall or injure persons or property.
4. Deterioration of the foundation.
5. Deterioration of floor supports so that they cannot safely carry imposed loads.
6. Deterioration of members of walls, or other vertical supports so that they split, lean, list, buckle, or become incapable of safely carrying imposed loads.
7. Deterioration of members of the ceiling, roofs, ceiling and roof supports, or other horizontal beams to the extent that they sag, split, buckle or otherwise become insufficient to safely carry imposed loads.
8. Deterioration of fireplaces or chimneys so that they list, bulge, or settle.

C. Abatement.

1. In addition to enforcement under IDC subchapter 100, violation of this subsection is hereby declared to be a public nuisance which may be abated and penalized as provided under IMC Chapter 14, Article II, Divisions 7 and 8, and IMC Chapter 6, Articles III and IV.

2. Nothing in this Section shall be construed to prevent the alteration, Demolition or Relocation of all or part of a Resource, if the Resource is in an unsafe or dangerous condition that constitutes an eminent and serious threat to public safety, and the Building Official certifies such action is required for public safety.

59.130 Economic Hardship

The Commission shall approve an application for a Relocation, Demolition, or alteration, if the applicant can demonstrate that complying with the provisions of this subchapter creates an economic hardship that deprives the Owner of all economical viable use of the subject property.

A. Separate standards for demonstrating an economic hardship are established for investment or income-producing and non-income-producing properties:

1. Economic hardship for an income-producing property shall be found when the property owner demonstrates that a reasonable rate of return cannot be obtained from the Resource if it retains its historic features, buildings, or structures in either its present condition or if it is rehabilitated.

2. Economic hardship for a non-income-producing property shall be found when the property owner demonstrates that the Resource has no economically beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.

B. Property owners seeking application approval due to economic hardship must provide sufficient information, as determined by the Historic Preservation Officer, to meet the above standards. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:

1. Willful or negligent acts by the owner;

2. Purchase of the property for substantially more than market value;

3. Failure to perform normal maintenance and repairs;

4. Failure to diligently solicit and retain tenants; or

5. Failure to provide normal tenant improvements.

59.140 Enforcement

Violations of this Code may be enforced and abated pursuant to one or more of the following:

A. IMC Chapter 14, Article II,
B. IDC Subchapter 100; and
C. Any applicable remedy available under the City's Building and Construction Code, set forth at IMC Chapter 6.

SUBCHAPTER 60: PLANNED UNIT DEVELOPMENT

60.005 Purpose

The purpose of this chapter is as follows:

A. To permit the development of a group of residences (single-family dwellings, duplexes, multiple-family dwellings, or manufactured dwellings) as a planned interrelated entity;

B. To encourage more efficient, innovative, and coordinated development than might occur if such a group of residences were developed as an aggregation of individual buildings on separate lots; and

C. To provide standards for planned unit developments.

60.010 Definitions

A. Planned Unit Development: A complex of residential structures constructed by a single owner or group of owners acting jointly and planned as a single unit according to the provisions of this chapter. The phrase "planned unit development" may be abbreviated "PUD".

B. Common Open Space: An area within a PUD, which area is designed and intended for the use or enjoyment of all residents of the development or of the public in general.

C. Homeowners Association: An association of owners or tenants created as a non-profit corporation under the laws of this state and having as its purpose the maintenance and enforcement of covenants and restrictions on the use and maintenance of common open space and other common facilities within a PUD.

60.015 PUD as a Conditional Use

An application for a PUD shall be processed as a conditional use in accordance with the procedures set forth in Chapter 11, "Land-Use Actions", and Chapter 71, "Conditional Uses". The applicant for a PUD shall be subject to the requirements of Chapters 11 and 71 in addition to the requirements of this chapter.

60.020 General Findings Necessary for Approval of a PUD

The Planning Commission shall approve a planned unit development only if it finds that the PUD will satisfy the requirements of this chapter and that the following conditions exist:

A. The plan proposed for the PUD is an effective and unified treatment of the development possibilities on the project site, is consistent with the Comprehensive Plan, and makes appropriate provisions for the preservation of natural features such as streams, trees and rough terrain.

B. The proposed PUD will be compatible with the area surrounding the project site and will make no greater demand on public facilities and services than other authorized uses of the land.

C. The financing available to the applicant is sufficient to assure completion of the planned unit development.

D. All requirements for land divisions, as applicable shall be met.

E. All land use and development standards are met, except as modified under Section 60.030.

60.025 Minimum Area of a PUD Site

A lot, parcel, or tract proposed for development as a PUD shall have an area of at least three (3) acres.

60.030 Dimensional Requirements for a PUD

A. The minimum lot area, width, frontage, and yard requirements applying to individual buildings in the zone in which a PUD is proposed shall not apply within a PUD.

B. If the spacing between main buildings is not equivalent to the spacing which would be required between buildings developed under this ordinance on separate parcels, other design features shall provide light, ventilation, and other characteristics equivalent to those obtained from the spacing requirements.

C. The maximum height of any building in a PUD may exceed those building heights prescribed in the zone in which the PUD is proposed if open space, building setbacks, and other design features of the PUD are used to avoid any adverse effects from the greater height.

D. The lot coverage of any PUD shall not exceed 25 percent of the land area being developed, exclusive of public and private streets.

E. Front yard and rear yard setback requirements shall not apply, except that a minimum front yard setback of 15 feet is required for any garage which faces a public or private street.

F. Side yard setback requirements shall not apply, except that all detached accessory structures shall meet Uniform Building Code requirements for fire walls.

60.035 Density of PUD

The density of the PUD shall not exceed the maximum density permitted in the zone in which the PUD is to be developed.

60.040 Common Open Space

A. No open area may be accepted as common open space within a PUD unless it meets the following requirements:

1. The location, shape, size, and character of the common open space is suitable for the planned development.

2. The common open space is for amenity or recreational purposes and the uses authorized are appropriate to the scale and character of the PUD, considering its size, density, expected population, topography, and the number and type of dwellings provided.

B. Common open space shall be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. Buildings, structures, and improvements to be located in the common open space shall be appropriate to the uses which are authorized for the common open space.

C. The development schedule which is part of the PUD plan shall coordinate any improvement of the common open space with the construction of residential dwellings in the PUD.

D. If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that such buildings, structures, and improvements will be completed. The city manager shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.

E. No common open space may be put to a use not specified in the final plan unless the final plan is first amended to permit the use. However, no change of use may be considered a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved.

60.045 Conveyance of Common Open Space

A. Land shown on the final plan as common open space shall be conveyed under one of the following options:

1. To a public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it; or
2. To a homeowner's association, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission. Such an association shall be formed and continued for the purpose of maintaining the common open space.

B. If the common open space is not conveyed to a public agency, the covenants governing the use, improvement, and maintenance of the common open space shall authorize the city to enforce their provisions.

60.050 Accessory Uses Within a PUD

The following accessory uses may be approved as a part of a PUD:

A. Golf course;

B. Private park, lake or waterway;

C. Recreation area;

D. Recreation building, clubhouse, or social hall;

E. Any other accessory structure which the Planning Commission finds is designed to serve primarily the residents of the PUD and is compatible with the design of the PUD. Nothing in this provision shall be construed as authorizing the development of commercial or industrial uses in a residential zone.

60.060 Tentative Plan For PUD

A. The applicant for tentative approval of a PUD shall submit a tentative plan to the Planning Commission. The application for tentative plan to the Planning Commission. The application for tentative approval shall be considered a request for a conditional use. Such application shall be processed according to the provisions of Chapter 11, "Land-Use Actions, and Chapter 71, "Conditional Uses", and shall be subject to the requirements of those chapters.

B. A pre-application conference with the City Manager or designee shall be required for the purpose of gathering general information and guidelines prior to the submission of a tentative plan.

C. Maps, plans, and drawings required for the tentative plan shall be drawn to scale and shall be reproducible by the Ozalid (blueprint) process or by a similar means. Fifteen copies of all the maps, drawings, plans, and written statements which comprise the tentative plan shall be submitted with the application for tentative approval.

D. The tentative plan for a PUD shall include the following:

1 A map showing street systems, lot lines, and other division of land for management, use, or allocation.

2. A map showing areas proposed to be conveyed, dedicated, or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings, and similar public and semi-public uses.

3. A plot plan for each building site and common open space area, showing the approximate location of buildings, structures, and other improvements and indicating the open spaces around buildings and structures.

4. Elevation drawings of typical proposed structures.

5. A development schedule indicating the following:

a. The approximate date when construction of the project can be expected to begin.

b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.

c. The anticipated rate of development.

d. The approximate dates when each stage in the development will be completed.

e. The area, location, and degree of development of common open space that will be provided at each stage.

6. Agreements, provisions, or covenants which govern the use, maintenance, and continued protection of the PUD and any of its common open space areas.

7. A written statement containing the following information:

a. An explanation of the character of the PUD and the manner in which it has been planned to take advantage of the PUD regulations.

b. A statement of the proposed financing;

c. A statement of the present ownership of all the land within the PUD.

8. The following plans and diagrams may be required if the Planning Commission finds that the PUD creates special problems of traffic, parking, landscaping, or economics:

a. An off-street parking and loading plan;

b. A circulation diagram indicating proposed movement of vehicles, goods, and pedestrians within the PUD and to and from the surrounding neighborhood, including any features and traffic regulation devices needed to facilitate traffic circulation;

c. A landscaping and tree plan;

d. An economic feasibility report or market analysis.

e. Special studies prepared by qualified professionals to determine potential traffic, geologic, noise, environmental, natural resource, or other impacts, and required mitigation.

60.075 Action on Tentative Plan

The Planning Commission may approve, deny, or approve with modifications or conditions any tentative plan for a PUD or one or more phases of a PUD.

60.095 Final Plan in Phases

A final plan may be submitted for one or more phases of the PUD only if such phases have been approved by the Planning Commission as a part of the tentative plan.

60.100 Final Plan

The final plan, when it has been approved and recorded, shall be a permanent public record of the PUD. The final plan shall contain, in final form, all information contained in the tentative plan approved by the Planning Commission. The final plan shall be prepared in a form suitable for inclusion in the deed records of Polk County, and shall include the following:

A. If lots are to be sold, a "hard copy" subdivision plat in the form prescribed in ORS Chapter 92.

B. If condominiums are to be sold, a condominium plat as required under ORS Chapter 91.

60.105 Review of Final Plan

A. The final plan shall be reviewed by the Planning Commission's staff and compared with the approved tentative plan. The Planning staff shall prepare a written statement indicating whether the final plan is in substantial conformance with the approved tentative plan and whether any conditions imposed by the Planning Commission have been complied with.

B. The final plan shall be submitted to the Polk County Surveyor. The county surveyor shall examine the plan for accuracy and completeness and may collect such fees as are provided by State law for such review.

60.110 Approval of the Final Plan

A. The Planning Commission shall review the final plan and the reports of the planning staff and the county surveyor. The Planning Commission shall approve the final plan if it is found to be in substantial conformance with the approved tentative plan. Final approval shall not require a public hearing but shall require approval by a majority of the Planning Commission members present and voting. If the final plan is approved, it shall be signed by the chairperson of the Planning Commission.

B. After the final plan has been approved by the Planning Commission, it shall be sent to the City Council for the approval and signature of its members. Any bond agreements, deeds, Bancroft petitions and statements of financial responsibility shall be submitted to the City Council with the final plan. The approval of the final plan shall become null and void if the final plan is not recorded within 30 days after the last required signature is obtained.

60.115 Sale of Property Prior to Final Recording

No person shall dispose of, transfer, lease, or sell, or agree, offer, or negotiate to sell any lot, building, or membership in any PUD before such PUD has received final approval in accordance with the provisions of this chapter and its final plan has been recorded with the Polk County Clerk.

60.120 Building Permits

The City Building Official shall not issue any building permit for any structure within a proposed PUD unless such PUD has received final approval in accordance with the provisions of this chapter and its final plan has been recorded with the Polk County Clerk.

60.125 Amendment of Final Plan

The recorded final plan of a PUD may be amended. Such amendment will be considered and processed in the same way as an application for a new PUD. No modification or amendment of an approved final plan is to be considered a waiver of the covenants limiting the use of the land, buildings, structures and improvements within the planned unit development; and all rights to enforce these covenants against any change permitted by this section are expressly reserved.

60.130 Assurance of Compliance

The Planning Commission or the City Council may require performance bonds or other measures to ensure that an approved PUD will be developed to required standards.

60.135 Control of the Development After Completion

The approved final plan shall continue to control the planned unit development after the final PUD is finished, and the following shall apply:

A. The use of the land and the construction, modification, or alteration of a building or structure within the planned unit development shall be governed by the approved final plan.

B. No change shall be made in development contrary to the approved final plan without approval of an amendment to the plan except as follows:

1. Minor modifications of existing buildings or structures may be authorized by the Building Official if they are consistent with the purposes and intent of the final plan and do not increase the cubic footage of a building or structure.

2. A building or structure that is destroyed or substantially damaged may be reconstructed without approval of an amended planned unit development if the Planning Commission finds that the proposed reconstruction conforms to the general character and purpose of the final plan.

SUBCHAPTER 61: MANUFACTURED DWELLING SITING AND DEVELOPMENT

61.005 Purpose

The purpose of this chapter is to provide standards for the establishment, expansion, or alteration of manufactured dwelling parks; to provide standards for placement of manufactured dwellings on individual lots and to ensure that manufactured housing development provides affordable and quality housing in accordance with the goals of the Independence Comprehensive Plan.

61.010 Application of Standards

The standards and requirements set forth in this chapter shall apply, as designated, to any individually-sited manufactured dwelling, manufactured dwelling within a park, or manufactured dwelling park established, expanded, or altered after the date of adoption of this ordinance.

An application for a manufactured dwelling park shall be processed as a conditional use in accordance with the procedures set forth in Chapter 11, "Land-Use Actions", and chapter 71, "Conditional Uses". The applicant for a manufactured dwelling park shall be subject to the requirements of Chapters 11 and 71 in addition to the requirements of this chapter. For manufactured dwelling parks, the Planning Commission shall have the power to impose conditions for requirements beyond those set forth in this chapter in accordance with the provisions of Chapter 71, "Conditional Uses".

61.025 Development Standards

A. Density: The maximum density of a manufactured dwelling park shall not exceed 10 units per gross acre.

B. Minimum Area: The minimum area of any space to be occupied by a manufactured dwelling and its accessory structures shall be 2,500 square feet.

C. Utility Connections: Each space shall be equipped with connections for running water, electricity, and sewage disposal. The cost of such utility connections from the property line to the manufactured dwelling space shall be born by the owner and shall not be paid by the city.

D. Roadways: All roadways within the manufactured dwelling park shall be paved with asphaltic concrete or a similar hard surface and shall be maintained in good condition thereafter. Where parking is permitted on park streets, such street shall be 30 feet minimum width; all streets without parking shall be 20 feet minimum width.

E. Parking: Each manufactured dwelling space shall have sufficient parking area for two vehicles. Such parking area shall be paved with asphaltic concrete or similar hard surface and shall have a minimum area of 400 square feet. Spaces may be designed end-to-end or side-to-side.

F. Patio: Each manufactured dwelling space shall have, adjacent to and parallel to the space, a patio or deck of concrete, brick, stone or wood. The minimum area of such a patio shall be 120 square feet and shall not be less than 8 feet wide in any dimension. The patio shall not be used for the parking of vehicles.

G. Coverage of Manufactured Dwelling Spaces: No manufactured dwelling, excluding its accessory structures, shall occupy more than 40% of the space provided for it. The total area occupied by the mobile home, accessory buildings, and structures on a manufactured dwelling lot shall not exceed 75% of the lot area.

H. Minimum Size and Facilities: No manufactured dwelling shall be permitted to be occupied for residential purposes in a manufactured dwelling park unless it has at least 160 square feet of floor area. Such area shall be determined by measuring the exterior of the manufactured dwelling at the floor level. Such a measurement shall exclude the trailer hitch, steps and similar exterior fittings. Each manufactured dwelling shall have its own water closet, lavatory, and shower or bathtub, all of which shall be connected with drains and running water. Such facilities shall be located in a separate room within the mobile home. Each manufactured dwelling shall also contain a kitchen room or space which shall have hot and cold running water, a sink, and cooking facilities. The sink shall be connected to a drain system.

I. Electrical Connections: No manufactured dwelling shall be permitted in any mobile home park unless such mobile home shall contain integral electric wiring which supplies connection to convenience outlets in each room of the mobile home. If there is no separate kitchen room, at least one convenience electrical outlet shall be located in the kitchen space in addition to outlets in other parts of the room in which the kitchen space is located. Outlets provided in the ceiling or walls and which are intended for lighting purposes shall not be counted as convenience outlets.

J. Foundation or Skirting: No manufactured dwelling shall be permitted in any manufactured dwelling park unless it rests on a continuous foundation or has opaque continuous skirting or non-decaying, non-corroding material extending to the ground. The skirting or foundation shall have provisions for ventilation and access to the space under the unit, for inspections and maintenance of service connections.

K. Storage Area: A storage structure having a gross floor area of at least 60 square feet shall be constructed and completed prior to the occupancy of any manufactured dwelling.

L. Screening of Park: Any manufactured dwelling park established, altered or expanded in accordance with the provisions of this chapter shall be surrounded, except at its entry and exit, by a sight-obscuring fence, landscaping, or hedge not less than six (6) feet in height at maturity. Such fence, landscaping, or hedge shall be maintained in a neat manner.

M. Numbering of Spaces: Each space within a manufactured dwelling park shall be legibly numbered so that it may be easily found by emergency vehicles. A plot plan showing the location of each number space shall be furnished to the Polk County Fire District #1.

N. Fire Safety Facilities:

1. An adequate number of fire hydrants shall be provided within the manufactured dwelling park so that no space or structure within the park is more than 400 feet from a hydrant. Each hydrant shall be located on a roadway within the park and shall conform in design and capacity to the public hydrants in the City. Hydrants within the manufactured dwelling park shall be installed at the expense of the developer of the park.

2. Water supplies for fire protection operations shall be as required by the Polk County Fire District #1.

3. Access to a manufactured dwelling park for fire protection shall be such as to permit fire apparatus to approach within 100 feet of each mobile home.

O. Lighting: Streets and walkways shall be lighted during the hours of darkness. Lighting shall be designed to an average of 0.25 horizontal candle power or light the full length of all roadways and walks within the park boundaries. All lighting within the park shall be installed and maintained at the expense of the owner of the property and shall not be under the control of the mobile home occupant.

P. Landscaping: All open spaces not occupied by structures, manufactured dwelling, or walkways, shall be planted or otherwise landscaped, and shall be properly maintained. Such landscaping shall include at least one tree on each mobile home space within the park. Such trees shall have a height of not less than six (6) feet at maturity. The park area shall be maintained free of dry brush, leaves and weeds which might allow fires to spread between manufactured dwelling and other buildings in the park.

Q. Service Buildings: If a service building is provided, it shall conform to the following:

1. Be located 15 feet or more from any manufactured dwelling space.

2. All park-owned public buildings accessible to park tenants shall be kept in a sanitary condition, in good repair and free of debris and refuse.

3. Shall be provided with listed portable fire extinguisher in accordance with the provision of the NFFA Standard for portable fire extinguisher.

R. Recreational Vehicle Parking Area: Each manufactured dwelling park shall have an area designated for parking and storage of recreational vehicles. Roadways, vehicular parking areas, patios, and yards shall not be used for long-term parking or storage of trailers, boats, campers, and other recreational vehicles.

The recreational vehicle parking area shall have a surface of asphaltic concrete or a similar paved surface. Each space designated for the parking of recreational vehicles shall have a minimum width of 10 feet, a minimum length of 22 feet, and sufficient area beyond the space to allow the entry and exit of recreational vehicles.

There shall be at least two recreational vehicle parking spaces in the recreation vehicle parking area. In addition, there shall be at least one recreational vehicle parking space for every seven (7) manufactured dwelling spaces in the manufactured dwelling park.

61.030 Siting Mobile Homes

Each manufactured dwelling within a manufactured dwelling park shall be sited in accordance with the following setbacks:

A. A minimum of 15 feet from any other manufactured dwelling.

B. A minimum of six (6) feet from any accessory building on any adjoining manufactured dwelling space, except that a double carport or garage may be built which serves two adjacent mobile homes.

C. When a carport or garage is built to serve two adjacent manufactured dwellings, a minimum 3-foot separation shall be provided between the double carport and any adjacent structure, manufactured dwelling , or manufactured dwelling accessory structure. As an alternative, a one-hour fire separation may be provided through the center of the double carport serving adjacent manufactured dwellings .

D. A minimum of 10 feet from any property line (excluding the boundaries between mobile home spaces).

E. A minimum of 15 feet from any public right-of-way.

F. A minimum of five (5) feet from any common roadway or walkway within the manufactured dwelling park.

61.035 Park Sanitation and Maintenance

A. General Responsibilities:

1. The owners or operator of a manufactured dwelling park shall maintain the park grounds, sewer and water systems to their point of termination on the lot, streets, common walkways and buildings in a safe, sanitary condition.

2. The tenant shall maintain the tenant's lot and utilities from their termination point (lot boundaries defined by agreement between tenant and operator) in a safe, sanitary condition.

B. No person shall allow the person's pet animal to run at large or to create any health hazard within a manufactured dwelling park.

C. The area directly under each manufactured dwelling shall be kept free and clean of refuse or other objects that may create a fire hazard or harbor rodents.

D. Liquid petroleum tanks shall be securely anchored to the chassis of the mobile home. The manifold regulator valve shall be attached to the tank in an approved manner with approved material.

E. The sewage connection to a manufactured dwelling shall be maintained air and water tight.

F. All stands shall be designed to prevent standing water under or adjacent to any mobile home.

G. Refuse containers with fly-tight lids shall be provided by the park owner and maintained in a clean and sanitary condition. Garbage and refuse shall be disposed of in an approved manner to prevent fly, rodent, and health nuisances.

61.040 Additions to Manufactured Dwellings

Carports, cabanas, ramadas, awnings, and all other structures situated upon a mobile home space shall conform to the requirements of the Uniform Building Code.

61.041 Development Standards for Manufactured Homes Located Outside Manufactured Home Parks

Individual manufactured homes, as defined by the ordinance, shall be a permitted use in any zone where single-family dwellings are a permitted use, including but not limited to Single-Family Residential (RS), Medium-Family Residential (RM) and High-Density Residential (RH). The manufactured home shall comply with the following standards:

A. The manufactured home shall meet all provisions of the Independence City Code and Zoning Code as applicable to other dwellings in the same zone, including but not limited to development standards, architectural requirements and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subject.

B. The manufactured home shall be multi-sectional, double-wide or wider, and enclose a space of not less than 1,000 square feet.

C. The manufactured home shall set on continuous footings running the full length of the home. These footings shall be to manufacturer's specifications, but shall be no less than 18 inches (18") wide by six inches (6") deep with two #4 reinforcing rods installed for the full length of the footing. These footings shall run under the bearing points of the manufactured home and the perimeter skirting. The perimeter skirting shall be constructed of concrete, concrete block, masonry block or brick, and enclose the entire perimeter, with ventilation and access to the manufacturer's specifications. No wood or metal skirting shall be allowed. The perimeter of the home shall be backfilled such that the home is not more than twelve inches (12") above the finished grade.

D. The manufactured home shall have a pitched roof with a nominal pitch of three (3) feet in height for each 12 feet in width.

E. The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City Manager or designee. In no case shall the manufactured home shall have unpainted metal siding or unpainted metal roofing.

F. The manufactured home shall have a garage or carport constructed of like materials, unless the detached or attached garages are the predominant construction of immediately surrounding dwellings, in which case the manufactured home shall have a garage rather than a carport. The determination of whether the garage shall be attached or detached shall be made upon the predominant construction of immediately surrounding dwellings.

G. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards specified by state law for single-family dwellings constructed under the state building code.

H. The manufactured home shall not be sited in a historic district or on any land immediately adjacent to a historic landmark.

I. This subsection shall not be construed as abrogating a recorded restrictive covenant.

61.042 RV's Outside of Designated Areas Prohibited; Exceptions

Unless specifically authorized by this chapter, no manufactured home, trailer, recreational vehicle or camper shall be used for cooking, sleeping or living purposes except in a designated recreational vehicle park. Provided, however, that a camper or recreational vehicle may be used for sleeping or living purposes outside of a designated recreational vehicle park for a period not to exceed 15 days, after the owner or occupant thereof has first secured from the City a temporary-stay permit. The permit shall be issued for each vehicle or unit only once in each calendar year.

61.043 Designated Recreational Vehicle Park Standards

The use of recreational vehicles (RV) as temporary or semi-permanent living quarters is allowed in designated areas of manufactured dwelling parks, which shall be subject to the following additional standards:

A. Minimum area: The space provided for each RV shall be not less than 700 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles other than RVs, and landscaped areas. There shall be at least ten (10) feet between each RV. All RV spaces will have a minimum width of 20 feet.

B. Vehicle Parking Areas: Each RV space shall provide:

1. Sufficient parking area for one RV vehicle.

2. A minimum of 200 square feet for one additional vehicle. Such parking areas shall have a surface of asphalt, concrete, or suitable prepared rock base with a minimum of 3/4" rock finish, and shall be designed to provide runoff of surface water. A minimum depth of 8" Class II back-fill is required for the rock base, with a minimum depth of 2" Class I 3/4"-0" crushed rock finish. The portion of the space which is not occupied by the recreational vehicle or parking space shall be landscaped or otherwise treated to prevent dust or mud.

C. Patio: Each RV space shall have, adjacent to and parallel to the RV space, a patio of concrete, brick or stone. The minimum area of such a patio shall be 72 square feet and shall not be less than six (6) feet wide in any dimension. The patio shall not be used for parking of vehicles.

D. Screening: The boundary between RV spaces and around the designated RV area shall include a sight-obscuring buffer in the form of a hedge, fence or landscaping, not less than six (6) feet at maturity, and not less than 3.5 feet at the time of installation.

E. Electrical: Each RV space shall be provided with electrical service.

F. Water and Sewage Disposal: Each RV space shall be provided with piped potable water and sewage disposal service. The park shall provide a waste-water receptacle connected to the sewer system to accommodate RVs which are not so equipped.

G. Solid Waste Containers: The park shall provide solid waste containers which are durable, rust-resistant, water-tight, rodent-proof and washable with tight-fitting lids, covers or closeable tops. There shall be at least one 60-gallon container for every four RVs. The containers may be grouped, and must be within 300 feet of all RV spaces.

H. Numbering of Spaces: Each space within the designated area shall be legibly numbered in the same manner as required for mobile home parks.

I. Length of Stay: The maximum allowable stay for an RV shall be 270 days in areas designated for RVs. To remain in the RV area of a park for more than 30 days, a RV shall contain at least 10 square feet of interior space, be equipped with plumbing and cooking facilities and be connected to the water and sewer service provided by the park. When an RV has been in place for maximum allowable period, that RV shall not be allowed in the park for a minimum of 14 days thereafter.

J. RV Parking Additional: The designated RV living quarters area shall be in addition to the parking area required under Subsection A above.

K. Other Standards: The designated RV living quarters area shall have lighting, landscaping, fire safety facilities, and roadways in the same manner as the rest of the mobile home parks.

L. Storage: The RV park shall provide at least 100 square feet of locked storage space for each RV space. Said storage space may be grouped and must be within 300 feet of all RV spaces. No storage of any personal property, of any kind, other than a motor vehicle, shall be allowed on any RV space.

M. Sanitary Facilities: One shower shall be provided for each sex for every 20 RV spaces. Flush toilets and lavatories shall be provided in accordance with the following table:

Total Number of RV Spaces	Number of Toilets Men**	Women	Number of Lavatories* Men	Women
1-15	1	1	1	1
16-30	2	3	2	3
31-60	3	4	3	4
61-100	4	5	4	5

* One additional lavatory shall be provided for each 2 toilets when more than 6 toilets are required.

** Urinals may be acceptable for not more than 1/3 of the toilets required in the men's facilities.

N. The designated area within manufactured dwelling parks which allows the use of recreational vehicles as residences shall not exceed 25% of the total net buildable area of the manufactured dwelling park property.

61.045 Recreation Area

A minimum of 5,000 square feet or 200 square feet per manufactured dwelling space, whichever is greater, shall be provided and maintained by the owner of the manufactured dwelling park for a recreation area for group or community activities. The Planning Commission may require such area to be protected from streets, parking areas, or the like, by a fence or the equivalent. Each such required area shall be maintained in a clean and orderly condition by the owner of the park.

61.050 Play Areas

A separate play area shall be provided in all manufactured dwelling parks that accommodate children under 14 years of age unless each space has a minimum size of 4,000 square feet. Such play area shall be not less than 2,500 square feet of area with at least 100 square feet of play area provided for each manufactured dwelling space occupied by children. In determining whether or not plans should be approved, the city shall require that suitable separations or other safeguards be provided if the play area abuts a railroad, a public street, a sharp declivity or other similar hazard.

61.055 Conformity of Existing Mobile Home Parks

A. Any manufactured dwelling park now existing with the city shall meet the requirements of the following sections and subsections of this ordinance within twelve months from the date of the adoption hereof:

61.010C - Utility Connections
61.020F - Patio
61.020H - Minimum Size and Facilities
61.020I - Electric Connections
61.020J - Foundation and Skirting
61.020M - Numbering of Spaces
61.020N - Location of Fire Hydrants
61.020O - Lighting
61.020P - Landscaping
61.020Q - Service Building
61.025R - R.V. Spaces
61.050 - Play Areas

B. Any manufactured dwelling park now existing within the city shall, within twelve months from the date of adoption of this ordinance, erect a fence, as required by Section 61.020L of this ordinance or as an alternative, shall, within twelve months from the date of adoption of this ordinance, plant a hedge or vegetative screen which shall, within three years from the date thereof, meet the requirements of 61.020L.

C. Within twelve months from the date of the adoption of the ordinance, all interior roadways in existing manufactured dwelling parks shall be paved with asphaltic concrete or concrete in accordance with the provisions of Subsection 61.020D.

D. No manufactured dwelling park may be expanded so as to occupy greater aggregate space or house a greater number of manufactured dwelling or to house larger individual manufactured dwellings without approval from the Planning Commission. A request for expansion will be considered an application for a conditional use for a manufactured dwelling park. The Planning Commission shall not approve any such request for expansion unless the expanded portions shall conform in all particulars to this ordinance.

61.060 Interpretation of this Ordinance

This ordinance is intended to establish the minimum requirements for manufactured dwelling parks within the City. The Planning Commission shall, in considering an application for a conditional use permit for manufactured dwelling parks, consider the effects of the manufactured dwelling park upon the surrounding area, upon the utility systems of the city, and upon the streets and traffic volumes within the city.

61.065 Applicability of Other Laws

In addition to the rules set forth in this chapter, manufactured dwelling park owners, operators and tenants shall comply with all other federal, state, or local ordinances, statutes, rules and regulations pertaining to mobile homes.

61.070 Buffer Strip

Any portion of a manufactured dwelling park which is within 50 feet of a railroad, a general industrial area, or a commercial area shall be provided with a landscaped buffer strip designed to protect residents of the park from noise, glare, or other noxious occurrences. The buffer strip shall be at least 20 feet in depth and shall be fenced, planted, and/or bermed to meet the intent of this section. City approval of maintenance provisions shall be required.

SUBCHAPTER 62: MANUFACTURED DWELLING SUBDIVISION REGULATIONS

62.010 Compliance Required

Except as modified by this ordinance, manufactured dwelling subdivisions shall comply with the provisions of Chapter 90 of the Independence City Code, the Land Division Ordinance, and the Zoning Ordinance.

62.020 Code Conformance

Mobile homes in manufactured dwelling subdivisions shall conform in all respects to local, state, and federal requirements in effect at the time of their installation.

62.030 Permitted Locations

Manufactured dwelling subdivisions are conditional uses in the Medium Density Residential (RM) Zone and High Density Residential (RH) Zone pursuant to Subchapters 21 and 22 of the Independence Zoning Code.

62.040 Application and Processing

Manufactured dwelling subdivisions shall be subject to the same provisions of Chapter 90 of the Independence City Code as conventional residential subdivisions in terms of application and processing, except the tentative plan shall include the following additional information:

A. The approximate location and orientation of each manufactured dwelling stand on each lot and the approximate dimensions of the maximum sized mobile home and accompanying carport or garage that can be sited on the lot while still meeting all setback requirements set forth in Subchapter 61 of the Independence Zoning Code.

B. The approximate location of any manufactured dwelling accessory structure, carport, or garage on a mobile home lot.

62.050 Dwelling Types Restricted

Unless approved as part of a planned development pursuant to Subchapter 60 of the Independence Zoning Code, only manufactured dwellings shall be permitted in manufactured dwelling subdivisions.

62.060 Minimum Lots

The minimum number of lots allowed in a manufactured dwelling subdivision shall be ten contiguous lots developed solely for manufactured dwelling use.

62.070 Buffer Strip

Any portion of a manufactured dwelling subdivision which is within 50 feet of a railroad, a general industrial area, or a commercial area shall be provided with a landscaped buffer strip designed to protect residents of the subdivision from noise, glare, or other noxious occurrences. The buffer strip shall be at least 20 feet in depth and shall be fenced, planted, and/or bermed to meet the intent of this section. City approval of maintenance provisions shall be required.

SUBCHAPTER 68: HOUSING ADJUSTMENTS

68.005 Purpose

The purpose of this chapter is to allow housing adjustments in accordance with ORS 197A.[1]

68.010 Criteria to Allow an Adjustment

Applicants submitting applications meeting the requirements of this Subchapter 68 and all requirements of HB 1537, Section 38(2) may request up to ten (10) "adjustments," as that term is defined and described in HB 1537, Sections 38(1), (4) and (5)(referred to herein to as "housing adjustments.") Each requested housing adjustment must be justified by at least one of the following criteria:

1. The adjustment will enable development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations;
2. The adjustment will enable development of housing that reduces the sale or rental prices per residential unit;
3. The adjustment will increase the number of housing units within the application;
4. All of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to moderate income households as defined in ORS 456.270 for a minimum of 30 years;
5. At least 20 percent of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to low-income households as defined in ORS 456.270 for a minimum of 60 years;
6. The adjustments will enable the provision of accessibility or visitability features in housing units that are not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations; or

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[1] The City considers limited and flexible standards for mixed use and stand-alone residential structures to be a best practice to regulate housing and encourage new construction – promoting a variety of options in the standards while maintaining a basic-level of community design character.

As such, with the enactment of SB 1537, the City weighed one of two options to proceed:

1. To make the existing standards for housing more detailed, to ensure that the character of residential and mixed-use neighborhoods is not impacted by a series of housing adjustments (if housing adjustments were applied broadly to a project).
2. Utilize the existing standards and allow housing adjustments in a narrow fashion only when the criteria in the Senate Bill were specifically proven to be met.

After weighing potential responses to the bill, the City has elected to maintain its relatively simple standards and to allow adjustments narrowly only in situations when certain criteria are met. This legislation is intended to achieve that result.

7. All of the units in the application are subject to a zero equity, limited equity, or shared equity ownership model including resident-owned cooperatives and community land trusts making them affordable to moderate income households as described in ORS 456.270 to 456.295 for a period of 90 years.

68.020 Criteria Support

An applicant shall state how the requested adjustment meets at least one of the criteria established in IDC 68.010. Such statements may include:

1. A narrative explaining how the identified criterion are met.
2. Design plans that compare project designs with and without the adjustment showing that the requested adjustment is necessary to increase the number of units within the project.
3. Financial analyses showing the costs of the project with and without the adjustment and showing that the proposed adjustment is either:
    a. Essential to ensure the overall project feasibility or
    b. Will meaningfully reduce the sale price and/or rents of the project for future occupants.
4. Where cost savings are proposed, a description of how savings associated with the adjustment will be passed onto future purchasers or renters of the project.
5. Legal documents regarding how the adjustment will be maintained for the periods listed in Subsections 68.010(4), (5) and (7).

68.030 Housing Adjustment Process

1. An application for each requested housing adjustment is required in addition to any other land use application required for the proposed project (such as Historic Preservation Review or Site Design Review).
2. An applicant may choose to consolidate the review of one or more housing adjustment applications, and any land use action required for the project, pursuant to Section 11.015(D). If consolidation is requested, the applicant shall nevertheless demonstrate that each requested adjustment individually satisfies one or more criteria in Section 68.010 on its own merit, as required by 68.010 and 68.020.
3. A property owner may initiate a housing adjustment application by submitting:
    a. An application on forms provided by the City.
    b. A statement identifying the criterion established in IDC 68.010 met by the proposal.
    c. Submittals satisfying Section 68.020 that conclusively demonstrate that the proposed adjustment meets the identified criterion.
    d. An application fee, as established by Council resolution.

4. A housing adjustment application shall be processed as a limited land use decision, in accordance with HB 1537, Section 38(3) and ORS 197.195(3)(a). At a minimum, such review procedures include, but are not limited to:
    a. Written notice to property owners within 100 feet of the subject property.
    b. A 14-day written comment period prior to decision issuance.
    c. Only the applicant may appeal the decision.
    d. The Planning Commission shall hear any such appeal; provided that any such appeal related to a project also requiring Historic Preservation Commission approval (such as a Historic Preservation Commission Review) will be heard by the Historic Preservation Commission.
    e. Housing adjustment appeal hearings shall be consolidated with any associated public hearing required for the project under IDC Subchapter 11, unless the applicant requests two separate hearings.

SUBCHAPTER 70: VARIANCES

70.005 Power to Grant Variances

The Planning Commission shall have the power to vary or modify the requirements of this ordinance. The power to grant such variances shall be used sparingly and only according to the provision of this ordinance.

70.010 Procedures

A variance is a land-use action. The procedures governing a request for a variance shall be those set forth in Chapter 11 of this ordinance, "Land-Use Actions".

70.012 Administrative Variances

A. The purpose of this section is to allow for City Manager or designee review of certain minor variances which are limited in scope and which are unlikely to have impacts beyond the property on which they are located.

B. Administrative Variances may be granted for relief from any dimensional development standard in the Zoning Ordinance, but such relief shall not exceed twenty (20) percent of the specified requirement.

C. Procedure and Standards. An application and site plan shall be filed pursuant to Subchapter 11 of the Zoning Ordinance. In reviewing the request, the City Manager or designee shall find that:

1. Granting the variance will not have a detrimental effect on uses and development on adjacent properties;

2. The variance is made necessary, due to natural or physical constraints of the building site; and,

3. The variance is consistent with the Comprehensive Plan designation and the purpose and intent of the applicable Zoning District.

D. A determination by the City Manager or designee regarding such a variance request shall be considered a ministerial (Type I) action as prescribed by Section 11.015(D) of the Zoning Ordinance. Notice of the decision shall be provided as required by Section 11.015(D).

E. Appeal of an administrative variance decision shall be made to the Planning Commission as prescribed in Section 11.015(D) of the Zoning Ordinance.

70.015 Standards for Granting Certain Variances

The Planning Commission may permit and authorize a variance from any dimensional development standard in the Zoning Ordinance, where such relief shall exceed twenty (20) percent of the specified requirement if the Commission finds that the variance would meet all of the following standards:

A. Exceptional or extraordinary circumstances or conditions 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 that substantially exist.

B. The practical difficulties resulting to the applicant for the variance have not been caused by the applicant or previous property owner.

C. That the special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Ordinance by the applicant or previous property owner.

D. The variance will be consistent with the Comprehensive Plan and with the purpose of the zoning in which the applicant's property is located.

E. Varying the requirements of the zoning ordinance will be of greater benefit to the public than would enforcement of the requirements of the zoning ordinance.

70.020 Standards for Granting Other Variances

Any provision of this ordinance, that is not a dimensional development standard, may be varied if the Planning Commission finds that the variance would meet all of the following standards:

A. The requirements of the zoning ordinance prevent the applicant for the variance from making any substantial, beneficial use of the applicant's property.

B. The condition which prevents or will prevent the applicant from making any substantial, beneficial use of the property is a condition peculiar to the applicant's property and not found generally in other property in the zone.

C. The condition which prevents the applicant from making substantial, beneficial use of the property was not caused by the applicant or previous property owner.

D. The variance will be consistent with the Comprehensive Plan and with the purpose of the zone in which the applicant's property is located.

E. Varying the requirements of the zoning ordinance will be of greater benefit to the public than would enforcement of the requirements of the zoning ordinance.

70.021 Standards for Reducing the Minimum Lot Size to 4,500 Square Feet in Hill's Addition

Existing lots in Hill's Addition in the City of Independence may be reduced to no less than 4,500 square feet if the Planning Commission finds that the variance would meet all of the following standards:

A. Any new lot created under the provisions of this Subsection must have a minimum frontage on a public street of 15' to allow for a driveway access, mail delivery and street address for police and emergency services.

B. The variance will be consistent with the Comprehensive Plan and with the purpose of the zoning in which the applicant's property is located.

C. Varying the requirements of the zoning ordinance will be of greater benefit to the public than would enforcement of the requirements of the zoning ordinance.

D. Granting the variance will not be materially detrimental to the public welfare or to improvements or residents in the neighborhood of the subject property, including considerations of public fire and life safety protection.

E. For properties located within the National Historic District, granting of the variance will result in a lot, which maintains any unifying development patterns such as sidewalk and street tree location, setbacks, building coverage and orientation to the street.

70.025 Limiting Variances

In granting any variance under the provisions of this chapter, the Planning Commission may impose conditions. Such conditions shall include, but not be limited to, limitations on the duration of the variance, restrictions on the dimensions of structures, and conditions regarding the location of structures. Such conditions shall apply to the applicant for such a variance and to any purchasers, renters, lessees, or subsequent owners of the subject property. A violation of such conditions shall constitute a violation of this ordinance.

70.030 Effective Date of the Variance

A variance granted by the Planning Commission under the provisions of this ordinance shall become effective 12 days after the mailing of notice of the Planning Commission's action unless such action is appealed to the City Council. An appeal of the Planning Commission's decision shall stay such action until the appeal has been heard by the city Council.

70.040 Cessation of a Variance

The discontinuance of any activity authorized by a variance for a continuous period exceeding 180 days shall be deemed an abandonment of such variance. The property affected by the variance shall thereafter be subject to all of the applicable provisions and requirements of this ordinance.

70.045 Transfer of a Variance

Any variance granted to a property owner under the provisions of this ordinance is transferable to subsequent owners of the same property unless otherwise provided at the time of the granting of the variance.

SUBCHAPTER 71: CONDITIONAL USES

71.005 Power to Grant Conditional Uses

The Planning Commission shall have the power to grant conditional uses listed in this ordinance.

71.010 Procedures

A conditional use is a land-use action. The procedures governing a request for a conditional use shall be those set forth in Chapter 11 of this ordinance, "Land-Use Actions".

71.015 Conditions for Granting a Conditional Use

A conditional use may be granted only if the following conditions are found to exist:

A. The conditional use that is requested is listed as a conditional use in the zone in which the subject property is located.

B. Granting of the conditional use will not be materially detrimental to the public welfare or to improvements or residents in the neighborhood of the subject property.

C. Granting of the conditional use will be consistent with the purpose of the zone in which the subject property is located and with the applicable Comprehensive Plan designation and policies.

71.020 Limiting Conditional Uses

In granting a conditional use, the Planning Commission may impose conditions. Such conditions shall include, but not be limited to, limitations on the duration of the conditional use, restrictions on the dimensions of structures, and restrictions regarding the location of structures. Such conditions shall apply to the applicant for the conditional use and to any purchasers, renters, lessees, or subsequent owners of the subject property. A violation of such conditions shall constitute a violation of this ordinance.

71.025 Effective Date of Conditional Use

A conditional use granted by the Planning Commission under the provisions of this ordinance shall become effective 12 days after the mailing of notice of the Planning Commission's action unless such action is appealed to the City Council. An appeal of the Planning Commission's decision shall stay such action until the appeal has been heard by the City Council.

71.035 Cessation of a Conditional Use

The discontinuance of any activity authorized by a conditional use for a continuous period exceeding 180 days shall be deemed an abandonment of such conditional use. The property affected by the conditional use shall thereafter be subject to all of the applicable provisions and requirements of this ordinance.

71.040 Transfer of a Conditional Use

Any conditional use granted to property owner under the provisions of this ordinance is transferable to subsequent owners of the same property unless otherwise provided at the time of the granting of the conditional use.

71.045 Expansion of a Conditional Use

Any conditional use granted under the provisions of this ordinance shall be granted only for the use or activity as described in the application for the conditional use or as prescribed by the Planning Commission. The enlargement or alteration of a conditional use beyond this size, area, or intensity described in the application or prescribed by the Planning Commission shall be considered a conditional use and shall be subject to all of the provisions of this chapter.

SUBCHAPTER 72: HOME OCCUPATIONS

72.005 Purpose

The purpose of this chapter is to set forth standards and requirements for conduct of home occupations. The intent of this chapter is to allow, within RS, RM, RH and MX residential zones, certain activities which are commercial in nature, but which are incidental, subordinate and secondary to the residential use and which are compatible with other residential activities within the neighborhood. Home occupations are also allowed in the MUPC commercial zone, but those uses are not subject to the provisions of this chapter. (Also: See definition of “Home Occupation”, Subchapter 13.)

72.010 Home Occupation Standards

A home occupation may be any occupation or profession which can be carried on by a member of the family or person residing on the premises, provided that all of the following conditions are met:

A. All signs shall comply with the requirements of the Independence Sign Code – Subchapter 58.

B. There is no display that will indicate from the exterior that the building is being used for any purpose other than residential.

C. There is no outside storage of materials.

D. There are no outside non-resident employees paid or unpaid.

E. A home occupation may be conducted in an accessory building. No more than 500 square feet of floor area within any one or combination of accessory buildings shall be devoted to a home occupation.

F. No dwelling shall be modified to accommodate a home occupation in such a way as to alter the residential appearance of the dwelling or to render its appearance incompatible with the neighboring residential buildings.

G. No home occupation shall be used as an assembly point for employees or assistants to be dispersed or assigned to other locations.

H. There shall be no more than three (3) commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries between the hours of 8 p.m. to 8 a.m.

I. Except for bed and breakfast establishments, there shall be no more than one (1) client’s or customer’s vehicle at any one time and no more than eight (8) per day at the home occupation site.

J. One commercially-licensed vehicle associated with the home occupation is allowed is allowed at the home occupation site daily. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.

K. The home occupation can be conducted in a safe and healthful manner and not create unusual fire or safety hazards, potential health problems or be in violation of any federal, state or local law or ordinance.

L. The home occupation does not create any nuisance conditions as defined by the City's nuisance ordinance.

72.012 Prohibited Home Occupation Uses:

A. Any activity that produces radio or TV interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that can be detected beyond the property lines is prohibited.

B. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music by a music teacher or the sale of computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to all other provisions of this chapter.

C. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, such as:

1. Ambulance service;

2. Animal hospital, veterinary services, kennels, animal boarding;
3. Auto and other vehicle repair; and

4. Repair, conditioning, or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site.

72.015 Home Occupation Complaint and Enforcement Procedures

A. A complaint by members of the public, city staff, elected or appointed officials regarding conditions A through L in Section 72.010 shall be investigated by the City Manager’s designee. The designee shall notify the resident of the results of the investigation by certified letter. If a violation has been found, the resident shall be given seven days to correct the violation. If not corrected, the designee shall bring the matter before the Planning Commission for review in accordance with the provisions of Subchapter 11 of the zoning code.

B. Two or more complaints received within 60 days shall be reviewed by the Planning Commission. Said complaints shall be in writing and shall set forth the nature of the objection. Such complaints shall be investigated by the City Manager's designee and the results of the investigation reported to the Commission. The Planning Commission shall hear the matter in accordance with the provisions of Subchapter 11 of the Zoning Code.

C. The City Manager or designee may visit and inspect the site of home occupations in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours and with reasonable notice. Code violations shall be processed in accordance with Subchapter 100.

SUBCHAPTER 73: PARKING

73.005 Parking Areas Required

Any building constructed, enlarged, altered or subject to a change of use shall establish and maintain parking areas in accordance with the provisions of this chapter.

73.010 Required Number of Parking Spaces

The number of parking spaces required for any building or land use shall be determined from the following table.

A. RESIDENTIAL USES[1]:	NUMBER OF SPACES REQUIRED
1. Single-Unit Dwellings and Duplexes	1 space per unit/ 3 spaces per unit (maximum)
2. Triplex and Quadplex	1 space per unit
3. Townhouses	1 space per unit
4. Cottage Cluster Development	1 space per unit
5. Multiple-unit Dwellings	1 space per unit
6. Residential unit in a mixed-use building	1 space per unit
7. Single room occupancy use	1 space for every 3 single room occupancy units
8. Accessory Dwelling Unit	No parking spaces required. Maximum 1 space per unit.
B. INSTITUTIONS:	NUMBER OF SPACES REQUIRED
1. Welfare or correctional institution	One (1) space per five beds for patients or inmates.
2. Convalescent hospital, nursing home, sanitarium, rest home, home for the aged.	One (1) space per two beds for patients or residents.
3. Hospital	Two (2) spaces per patient bed.
4. Child care facilities	Zero (O) spaces

5. The uses listed above in the Downtown Overlay Zone or Downtown Riverfront Zone	No minimum parking requirement.
C. PLACES OF PUBLIC ASSEMBLY	NUMBER OF SPACES REQUIRED
1. Church	One (1) space per four seats or eight (8) feet of bench length in the main auditorium.
2. Library; reading room	One (1) space per 400 square feet of floor area, plus one (1) space per two employees.
3. Elementary or Junior High school	One and one-half (1 1/2) spaces per classroom, plus one (1) space per administrative employee.
4. High School	One and one-half (1 1/2) spaces per classroom, plus one (1) space per administrative employee, plus one (1) space for each six students.
5. College; commercial school for adults	One and one-half (1 1/2) spaces per in classroom, plus one (1) space per five students the school is designed to accommodate.
6. Other auditoriums; meeting room	One (1) space per four seats or eight (8) feet of bench length.
7. Place of public assembly without fixed seats	One (1) space per 100 square feet.
8. The uses listed above in the Downtown Overlay Zone or Downtown Riverfront Zone	No minimum parking requirement.
D. COMMERCIAL	NUMBER OF SPACES REQUIRED
1. All retail and service-oriented commercial uses.	One (1) space per 500 square feet.
2. Restaurants and bars.	One (1) space per 250 square feet.
3. Lodging	One (1) stall per unit plus two (2) visitor parking stalls

4. The uses listed in (D)(1) and (D)(2) in the Downtown Overlay Zone or Downtown Riverfront Zone	No minimum parking requirement.
E. INDUSTRIAL	NUMBER OF SPACES REQUIRED
1. Industrial uses, except warehousing.	One (1) space per 700 square feet gross floor area.
2. Warehousing	One (1) space per 1,000 square feet of gross floor area.
3. Public utilities (gas, water, telephone, etc.), not including business offices.	One (1) space per two employees on the largest shift, plus one (1) space per company vehicle; a minimum of two (2) spaces is required.
4. The uses listed above in the Downtown Overlay Zone and Downtown Riverfront Zone	No minimum parking requirement.
F. OTHER The number of parking spaces required for buildings and uses not specifically listed in this section shall be determined by the Planning Commission.	

1. For residential uses, off-street parking includes the garage or carport area.

73.015 Loading Space

A. Any building constructed, enlarged, altered, or subject to change of use in order to accommodate a commercial activity shall establish and maintain one or more loading spaces for commercial vehicles in accordance with the provisions of this chapter. Commercial and mixed-use buildings within the Downtown Overlay Zone and Downtown Riverfront Zone are exempt from this requirement.

B. Each required loading space shall have a minimum width of 10 feet.

C. Each required loading space shall have a minimum length of 22 feet.

D. Each required loading space shall have access to a street or alley.

E. Each required loading space shall have a surface of asphaltic concrete, Portland cement, or similar paving material.

F. Number of loading spaces required:

1. Each commercial building having a gross floor area of 4,000 square feet or less shall have at least one loading space.

2. Each commercial building having a gross floor area greater than 4,000 square feet shall have at least two loading spaces.

73.020 General Requirements for Parking and Loading Areas

A. Within the Mixed-Use Pedestrian Friendly Commercial Zones and the Downtown Riverfront Zone, parking requirements may be met by a combination of off-street and on-street parking.

B. When allowed, on-street parking may be counted toward the minimum requirement when parking is allowed on both sides of the street and the proposed on-street parking is on the curb-face of the street edge abutting the subject land use, the space does not obstruct a required clear vision area, and the space does not violate any law or street standard.

1. Each on-street parking space shall have at least twenty-two feet of uninterrupted and available curb space; provided that a lesser width may be allowed if the applicant suggests angled parking and the configuration is approved by the City of Independence.

2. Each on-street parking space counted toward the requirements for a specific use shall not be used exclusively by the use but shall be available to the general public at all times. Signs or other activities that limit the use of an on-street space by the general public are prohibited.

3. No on-street parking for a use may be counted along Main Street, Monmouth Street, or C Street.

C. Parking spaces and maneuvering areas shall be designed as depicted in the diagrams and tables in Section 73.040 below.

D. Private or public parking areas shall be surfaced with asphaltic concrete, or an equivalent paved surface, and shall be adequately graded and drained as required by the City. Appropriate bumper guards or wheel barriers shall be installed 2.5 feet from a required yard or from a property line and 4.5 feet from any structure excluding a private garage.

E. Lighting of parking and loading areas shall be directed entirely onto the loading or parking area, shall be deflected away from any residential use and shall not cast a glare or reflection onto any public street.

F. The provision and maintenance of off-street parking and loading space shall be continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for

exclusive use as off-street parking or loading space. The subsequent use of the property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this ordinance.

G. No owner or occupant of a lot or building shall change the use to which the lot or building is put, thereby increasing parking or loading requirements, until the required increase in off-street parking or loading is provided.

H. Each off-street parking space for a dwelling shall be located no farther than 300 feet from the building or use that it is intended to serve, measured in a straight line from the building or use.

I. Each required automobile parking space shall have access to a street or alley.

J. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.

K. Required parking facilities, including curb side pick-up facilities, for two (2) or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.

L. Uses in the Downtown Overlay Zone or Downtown Riverfront Zone or within ¼ mile of a MI Trolley or a Cherriots 40X stop shall be exempt from up to 25% of parking requirements.

M. Off-street parking areas shall be landscaped in accordance with the requirements found in Subchapter 54 (Buffering, Screening, Landscape and Ash Creek Setback Requirements) and/or the requirements of the underlying zone.

N. Internal Pedestrian Connections in Off-Street Parking Areas.

1. Internal pedestrian connections shall be provided in parking lots with greater than ten (10) spaces in all zones other than the Heavy Industrial (I) and Light Industrial (IL) Zones. The following standards shall apply to the lots:

a. A continuous pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any, and to all future phases of the development, as applicable. If a walkway was articulated in the Downtown Parking Plan, a walkway may be provided in that location to help meet this requirement.

b. Walkways shall be reasonably direct between pedestrian destinations and minimize crossings where vehicles operate.

c. Pedestrian connections shall be a minimum of six (6) feet wide and distinguished from vehicular areas through changes in elevation and/or materials.

d. The Americans with Disabilities Act (ADA) contains different and stricter standards for some walkways. The ADA applies to the walkway that is the primary building entrance and walkways that connect transit stops and parking areas to building entrances. Where the ADA applies to a walkway, the stricter standards of ADA shall apply.

O. Vehicle parking spaces used for curb side pick-up shall be located off street, shall be clearly marked, and shall be in addition to the minimum vehicle parking spaces required for the associated use(s) based on the standards in IDC Section 73.010.

73.025 Parking of Bicycles

A. All parking lots for public or industrial uses shall provide a minimum of one (1) bicycle parking space for every ten (10) vehicle parking spaces. Bicycle parking within the Mixed Use Pedestrian Friendly Commercial (MUPC) zone shall be provided at a minimum rate of two (2) spaces per business.

B. Any apartment, dormitory, fraternity, sorority, student home, or other multiple-family residential structure having more than four (4) dwelling units or more than 12 residents shall provide a parking area for bicycles. Single room occupancy uses having 12 or more units shall also provide bicycle parking. The parking area shall be adequate to hold and permit the locking of one (1) bicycle for every two (2) dwelling units in the building or one (1) bicycle for every four (4) persons residing in the building, whichever requirement is less.

C. Bicycle parking areas shall include the following:

1. A sheltered area having direct access to an adjacent sidewalk or parking area. The bicycle parking areas need not be fully enclosed, but shall provide shelter from precipitation.

2. A parking surface of asphaltic concrete, Portland cement, or similar hard-surface paving material.

3. Racks, frames, posts, or other devices of metal, concrete, wood, or other durable material.

D. The requirements of Section 73.025 do not apply to single family, two-family, and three-family housing (attached, detached, or manufactured housing), home occupations, agriculture and livestock uses, or other developments with less than ten (10) vehicle parking spaces.

73.030 Areas Exempt from Certain Parking Requirements

Sections 73.010, 73.015 and 73.020 shall not apply to changes of use in existing commercial structures or any new commercial structure of less than 6,000 gross square feet of floor area lying within the Downtown Overlay Zone.

73.035 Access To State Highways.

Access to State Highways is granted by the Oregon Department of Transportation (ODOT). A change of use to which the lot or building is put may require amending an existing highway approach permit.

73.040 Parking Standards

73.040 Minimum Off-Street Parking Area Dimensions							
Parking Angle (a)	**Type of Space**	**Stall Width (b)**	**Stall to Curb (c)**	**Aisle Width[1,2] (d)**	**Curb Length (e)**	**Front of Stall to Front of Stall (f)**	**Overlap Front of Stall to Front of Stall (g)**
Parallel	Compact	8'0"	8.0	12.0	22.0	28.0	-
	Standard	8'0"	8.0	12.0	22.0	28.0	-
20°	Compact	9'0"	12.6	11.0	26.3	36.2	28.7
	Standard	9'6"	15.5	11.0	27.8	42.0	33.1
		10'0"	15.9	11.0	19.2	42.8	33.4
30°	Compact	9'0"	14.4	11.0	18.0	39.8	32.9
	Standard	9'0"	17.3	11.0	18.0	45.6	37.8
		9'6"	17.8	11.0	19.0	46.6	38.4
		10'0"	18.2	11.0	20.0	47.4	38.7
40°	Compact	9'0"	15.8	12.0	14.0	43.6	37.5
	Standard	9'0"	19.1	12.0	14.0	50.2	43.3
		9'6"	19.5	12.0	14.8	51.0	43.7
		10'0"	19.9	12.0	15.6	51.8	44.1
45°	Compact	9'0"	16.3	13.5	12.7	46.1	40.5
	Standard	9'0"	19.8	13.0	12.7	52.6	46.2
		9'6"	20.1	13.0	13.4	53.2	46.5
		10'0"	20.5	13.0	14.1	54.0	46.9
50°	Compact	9'0"	16.6	15.5	11.7	48.7	43.6
	Standard	9'0"	20.4	15.0	11.7	55.8	50.0
		9'6"	20.7	15.0	12.4	56.4	50.3
		10'0"	21.0	15.0	13.1	57.0	50.6
60°	Compact	9'0"	17.0	18.5	10.4	52.5	48.5
	Standard	9'0"	21.0	18.0	10.4	60.0	55.7
		9'6"	21.2	18.0	11.0	60.4	55.6
		10'0"	21.5	18.0	11.5	61.0	56.0
70°	Compact	9'0"	16.8	19.5	9.6	53.1	50.4
	Standard	9'0"	21.0	19.0	9.6	61.0	57.9
		9'6"	21.2	18.5	10.1	60.9	57.7
		10'0"	21.2	18.0	10.6	60.4	57.0
80°	Compact	9'0"	16.2	22.0	9.1	54.4	55.0

73.040 Minimum Off-Street Parking Area Dimensions							
Parking Angle (a)	**Type of Space**	**Stall Width (b)**	**Stall to Curb (c)**	**Aisle Width[1,2] (d)**	**Curb Length (e)**	**Front of Stall to Front of Stall (f)**	**Overlap Front of Stall to Front of Stall (g)**
	Standard	9'0"	20.3	24.0	9.1	64.3	62.7
		9'6"	20.4	24.0	9.6	64.4	62.7
		10'0"	20.5	24.0	10.2	65.0	63.3
90°	Compact	9'0"	15.0	22.0	9.0	52.0	-
	Standard	9'0"	19.0	24.0	9.0	62.0	-
		9'6"	19.0	24.0	9.5	62.0	-
		10'0"	19.0	24.0	10.0	62.0	-

Notes:

(1) For two-way circulation, the width of an aisle shall be a minimum of 22-feet.

(2) The width of an aisle serving both standard and compact parking spaces 80 degrees or more shall be a minimum of 24-feet

- Small car spaces may be provided on the following basis:
  - 10 or more total spaces required 20% of total.
  - 3-9 total spaces required 2 spaces.
  - 4-7 total spaces required 1 space.
  - 1-3 total spaces required 0 spaces.
  - Spaces shall be identified by a sign "Small Car Only" and painted
- No portion of a parking space or aisle shall be located in a required landscaped yard.
- The minimum driveway length between a dwelling and the edge of the sidewalk shall be 19 feet.
- The maximum allowable driveway width is 24 feet per dwelling at the street.

SUBCHAPTER 74: ACCESSORY STRUCTURES

74.005 General Provisions Regarding Accessory Uses

Accessory uses, including accessory dwelling units, shall comply with all requirements for the principal use except when specifically modified by this section.

A. Attached Accessory Buildings. Any accessory building attached to the main building shall be considered a part of the main building and shall be subject to the same requirements as the main building. Accessory structures shall be considered as being attached to the main building when any portion of the accessory structure is located within four (4) feet of the main building.

B. Setbacks in Residential Zones.

1. Attached accessory uses in residential zones are required to meet the setbacks in Subchapter 18.

2. Garages may extend in front of the front façade if they are side-oriented to the front lot line and:

    1. Windows occupy a minimum of 25% of the street-facing wall of the garage. Horizontal slider windows and windows that use mirrored or reflective glass are prohibited.

    2. Street facing windows incorporate all the following elements:

        a. Header cap. A decorative header cap as shown in Section 19.005(I)(5).

        b. Continuous trim. Trim shall be a minimum of 3 ½ inches wide and project no less than ½ inch from the wall;

        c. Windowsill. A projected or articulated windowsill as shown in Section 19.005(I)(5).

    3. All non-street facing windows shall incorporate continuous trim.

    4. The roof shall incorporate a primary gable or hip roof with a minimum 4/12 pitch.

    5. The street-facing elevation of the garage shall incorporate two of the following:

a. Knee braces;

b. Wainscoting; or

c. Multiple siding types/materials that are complementary to the primary siding types permitted in Section 19.005(H).

6. All roof eaves (overhangs) shall project a minimum of 12 inches from the exterior façade of the building and incorporate a gutter.

C. Detached Accessory Buildings.

1. Residential Zones. In the RS, RM, RH and MX zones, detached accessory structures shall:

   a. Not exceed two (2) in number.

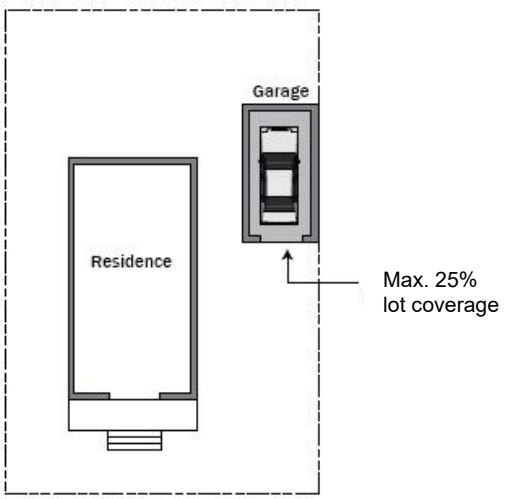
   b. Not cover more than 25 percent of the total area of any lot.

   c. Meet the setbacks and height requirements in Subchapter 18.

2. All Other Zones. In all other zones, accessory structures may occupy no more than 25 percent of the total area of any lot and must meet the same setback requirements of the zone in which the property is located.

D. Accessory Structures in Front Yards and Near Streets. No accessory structure exceeding two (2) feet in height, except a fence, shall be permitted in a required front yard or within five (5) feet of any street as defined in this ordinance. This provision does not apply to alleys.

[1]



[2]





Accessory structures. *[1] Detached, covered accessory structures should not exceed a maximum lot coverage of 25 % of the site as they are secondary uses and should not detract from the primary use [2] They can be used to house an attached dwelling unit.*

74.010 Specific Standards for Accessory Dwelling Units

A. Accessory dwelling units shall be subject to the following criteria:

1. One accessory dwelling unit is allowed per legal building lot as a subordinate use in conjunction with any detached single-unit structure.

2. Accessory dwelling units are required to meet the applicable Residential Design Standards, except as modified below:

    a. If an accessory dwelling unit is oriented to a street or an alley, the structure is required to have windows on 15 percent on the front of the building (rather than the 25 percent required in IDC 19.005(I)).

    b. If an accessory dwelling is set behind a building and is not adjacent to a street or alley, no minimum window requirements apply.

3. No off-street parking is required for an accessory dwelling unit.

4. Accessory dwelling units shall not be more than 800 square feet in size, excluding any related garage area that is constructed for the use. All accessory dwelling units shall be permanently affixed to the ground.

5. Where an accessory dwelling unit is proposed inside or attached to a single-unit residence, only one entrance to the main building is permitted in the front of the principal residence. A separate entrance for the accessory unit shall be located off the side or the rear of the building.

6. Accessory dwelling units shall meet all technical code standards including building, electrical, fire, plumbing, and other applicable code requirements.

7. An accessory dwelling unit and the primary structure on the lot shall be served by a single water meter. The water bill for the primary structure and the accessory dwelling unit shall be in the name of the property owner.

8. System Development Charges shall be charged per the adopted system development charge methodology.

9. Addressing for an accessory dwelling unit shall be approved by the City of Independence.

74.020 Specific Standards for Accessory Uses

A. Fences.

1. Standards for Zones

   a. Residential Zones.

      i. Height. In the RS, RM and MX zones, fences in the front yard shall not exceed 3 ½ feet in height unless the fence is constructed of a non sight-obscuring material. Side, rear and non sight-obscuring front yard fences shall not exceed seven (7) in height.

      ii. Materials.

         A. Fences shall be made of wood, brick, vinyl or wrought iron.
         B. Chain link fences shall be prohibited, unless 50 percent of the residential lots on the same block or cul-de-sac have chain link at the time of application submittal. In those instances, chain link may be used in a similar location on the lot as the other properties on the block/cul-de-sac (i.e. along a front, side or rear property line, if the existing fences are found in those locations on the other properties). No new chain link shall be allowed in the Independence Historic District.

[1] 

[2] 

Fences. *[1] Fences should be made of wood brick or wrought iron. [2] Front yard fences should not exceed 3 1/2 so as not to inhibit surveillance.*

   b. Commercial and Industrial Zones. Fences enclosing commercial or industrial uses, for which there is no height limitation, must be at least eight (8) feet high if topped with barbed wire or other injurious material.

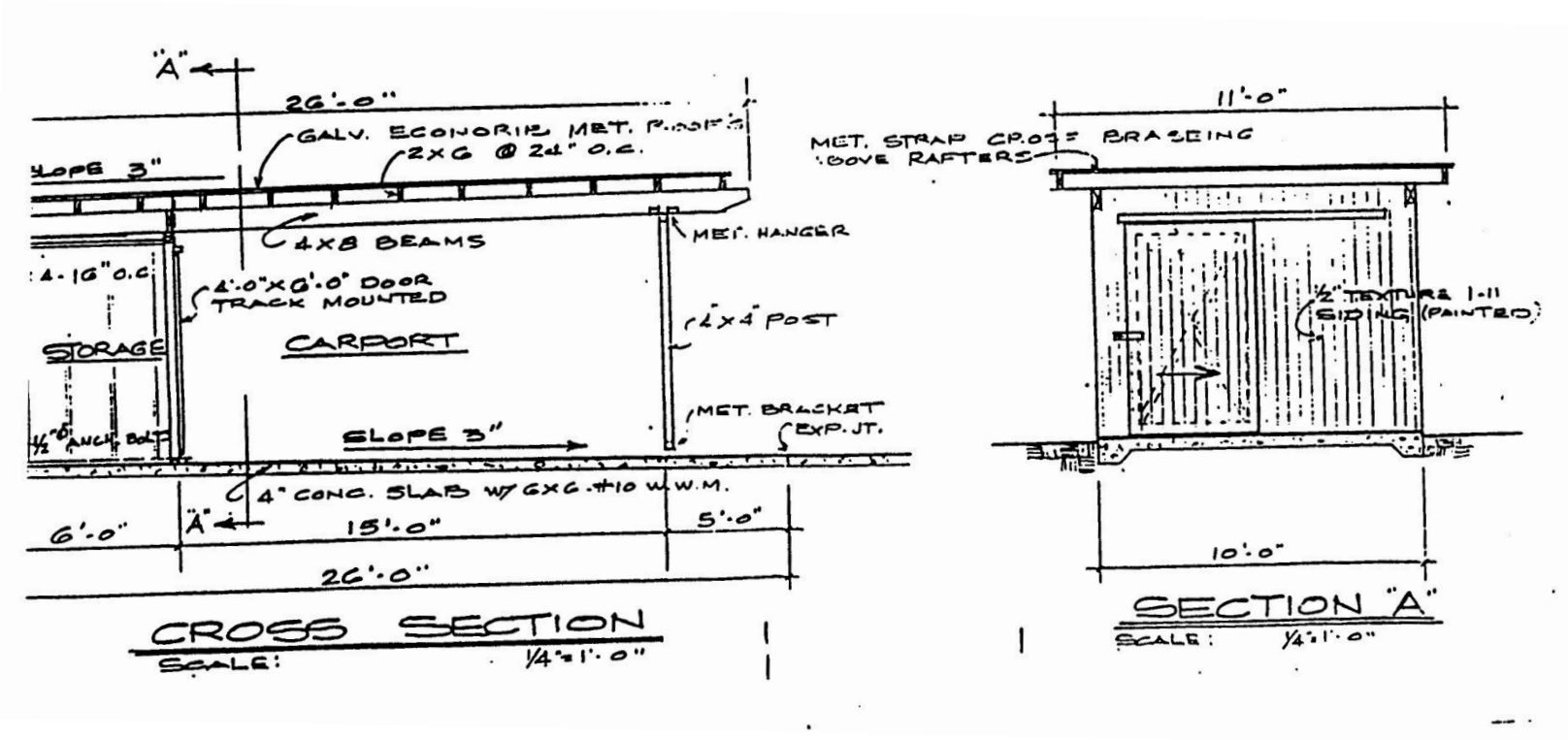
2. Vision Clearance Standards for All Fences. All fences which are located within vision clearance areas at street and alley intersections shall not exceed 3 ½ feet in height from the adjacent curb elevation and shall be constructed of a material which is non sight-obscuring.

3. Standards for Materials. All fences shall be constructed of such material as to be compatible with the surrounding area. No sheet metal, metal roofing, plywood, broken or splintered material, pallets, barbed wire, pig wire, woven wire or farm fence wire shall be used. Stained or discolored fence material shall be painted. All fencing shall be constructed so that the finished side shall face outward. All fences shall be maintained so as to be in an upright, self-standing condition and repaired with the same or similar materials used in the existing fence.

4. Required to Meet State and Local Codes. The construction of the fence shall meet all State and local codes. Fees and plans showing the location, materials and design of all fences shall be submitted to the city for a permit prior to construction.

B. Swimming Pools.

A swimming pool may be located within a rear yard or side yard provided that the pool meets the setback requirements for the zone in which the pool is located. Any pool installed shall be protected against accidental entry by a fence not less than 48" in height with a self-closing, self-locking gate not less than 48" from the edge of the pool.


"A"
26'-0"
GALV. ECONORIB MET. ROOFING
2X6 @ 24" O.C.
SLOPE 3"
4X8 BEAMS
MET. HANGER
4'-0"X6'-0" DOOR TRACK MOUNTED
12"X4" POST
STORAGE
CARPORT
MET. BRACKET
EXP. JT.
SLOPE 3"
4" CONC. SLAB W/ 6X6-#10 W.W.M.
6'-0"
15'-0"
5'-0"
26'-0"
CROSS SECTION
SCALE: 1/4"=1'-0"
11'-0"
MET. STRAP CROSS BRACING
ABOVE RAFTERS
½" TEXTURE 1-11 SIDING (PAINTED)
10'-0"
SECTION "A"
SCALE: 1/4"=1'-0"

SUBCHAPTER 75: GENERAL DEVELOPMENT STANDARDS

75.005 Minimum Area of Lots

No lot or parcel shall be divided or reduced in area in such a way as to violate the minimum area and width requirements of the zone in which the lot or parcel is located. No nonconforming lot of record shall be divided or reduced in area in such a way as to violate further the area and width requirements of the zone in which the lot or parcel is located.

75.010 Required Yard Areas not to be Divided

No portion of a lot or parcel necessary to provide the lot area or density of dwelling units required by the zone or plan designation in which that lot or parcel is located shall be divided or reduced in area. No yard, landscaped area, open space, or common area required by this ordinance shall be reduced in area or divided from the lot or parcel for which it is required.

75.015 Yards Apply to Only One Main Building

No yard, landscaped areas, open space, or common area required for a lot or a main building shall be counted as meeting the yard, open space, or area requirements of another lot or building.

75.020 Yards to be Unobstructed

Every required front, side, and rear yard shall be open and unobstructed by buildings or structures from the ground to the sky except for those projections and accessory structures permitted by this ordinance. Objects and materials such as firewood, building supplies, campers, boats, and vehicles which are stored for a period exceeding 30 consecutive days in one calendar year shall be subject to the yard requirements of this ordinance.

75.025 Parking in Required Yards

No parking of an automobile, truck, camper, boat, trailer, or other vehicle shall be allowed within 15 feet of any street, except in a driveway. No parking shall be allowed within any required landscaped area or common area. No driveway or required yard adjacent to a street shall be used for the permanent storage of any trailer, camper, or boat.

75.035 Projections into Required Front Yards

The following projections and structures may project or extend into a required front yard:

A. Planter boxes;

B. Chimneys and flues;

C. Steps;

D. Cornices;

E. Eaves;

F. Gutters;

G. Belt courses;

H. Headers;

I. Sills;

J. Pilasters;

K. Lintels;

L. Other ornamental features not extending more than 24 inches from the main building;

M. Uncovered porches and balconies provided that the overall height of the appendage is not greater than the height of the ground floor of the primary structure;

N. Covered, but unenclosed porches, which are not more than three (3) feet above grade;

O. Stoops, the floors of which are not more than three (3) feet above grade;

P. Bay windows.

In no case shall any of the above projections or structures encroach more than 20 percent into a required front yard.

75.040 Projections into Required Side Yards

A. Cornices, eaves, gutters, bay windows and fire escapes may project into a required side yard not more than two (2) feet.

B. Chimneys, flues, belt courses, leaders, sill, pilasters, lintels, and ornamental features may project not more than 1½ feet into a required side yard.

C. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the side yard property line provided they are less than two (2) feet in height from ground level.

75.045 Projections into Required Rear Yards

A. Cornices, eaves, gutters, bay windows, fire escapes, outside stairways or other unenclosed, unroofed projections may extend into a required rear yard a maximum distance of five (5) feet.

B. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters, and other ornamental features may project not more than 1½ feet into a required rear yard.

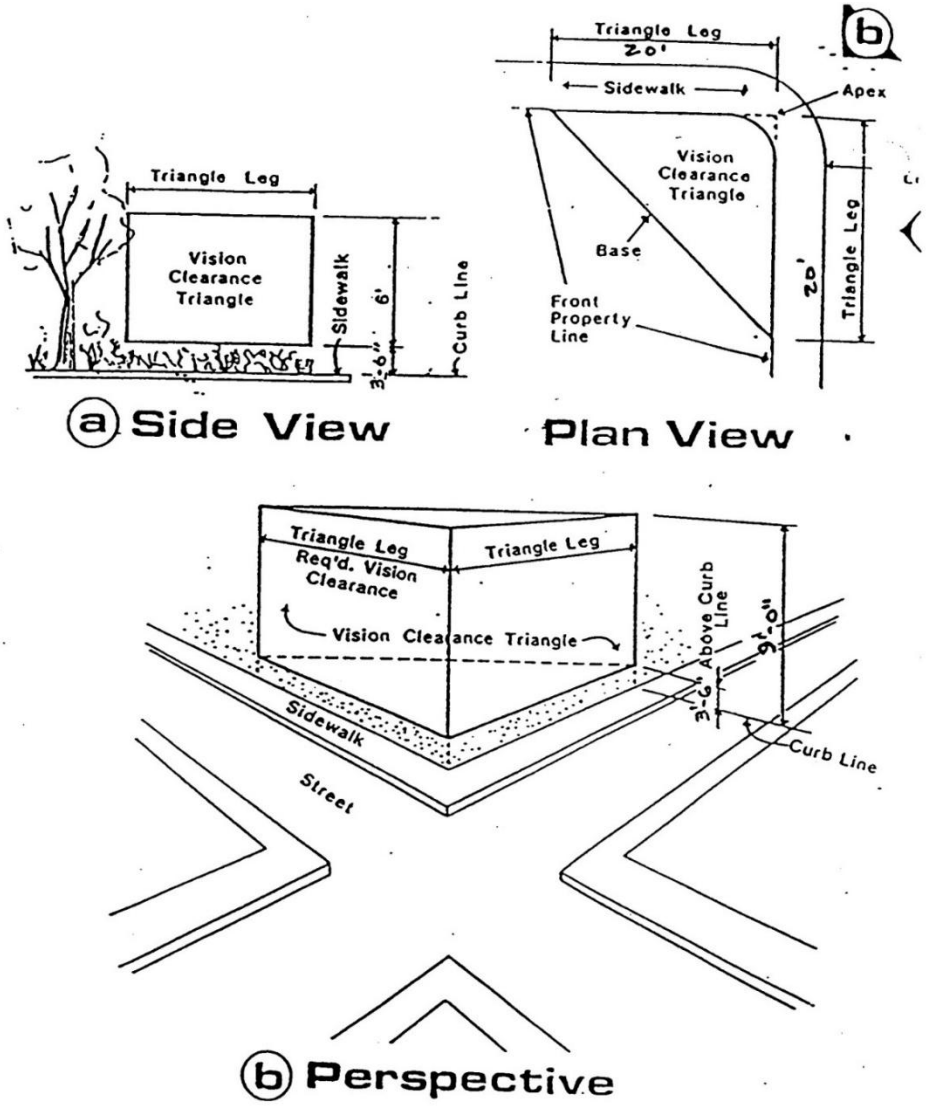
C. Uncovered patios, porches, and decks attached to the main building and having a height of two (2) feet or less may extend to the rear property line.

75.050 Projections Above Required Heights

Towers, chimneys, steeples, electronic communication antennae, and similar projections from the roof of a main building may exceed the height requirements of the zone in which they are located. Such projections shall not contain any habitable space and shall not exceed a total height above ground for 50 feet in any residential zone, or 85 feet in other zone.

75.055 Vision Clearance

Vision clearance, as defined in this ordinance, shall be provided in accordance with the following diagram:



75.060 Townhouse Dwelling Units

Townhouse units permitted in residential zones or authorized in approved subdivisions or Planned Unit Developments shall meet the following use and development standards:

A. Number of attached units. The number of townhouse units constructed as an adjoining structure shall not be more than four (4) dwelling units, each on a lot held in separate ownership. More than one such structure may be allowed per subdivision or planned unit development.

B. Maintenance easement. As a condition of issuance of a permit for any building having an exterior wall contiguous to a property line, the applicant shall furnish an easement from the owner of the property adjacent to said wall providing for ingress, egress, and use of such adjacent property for the purpose of maintaining, repairing, and replacing the building. Said easement shall be appurtenant to the property on which the building is located and shall be approved as to form by the City Attorney and shall be recorded with Polk County prior to issuance of the permit.

75.070 Cottage Cluster Developments

A. Siting Standards. The siting standards in the table below apply to the development of a Cottage Cluster on a lot.

Siting Standards - Cottage Cluster	
Minimum Number of Cottages per Cottage Cluster	5 cottages
Maximum Number of Cottages per Cottage Cluster	8 cottages
Average Cottage Size. Based on average floor area of all cottages and community buildings within the cottage cluster.	1,400 sf or less
Average Cottage Footprint	
• Average of cottages with height of 15 feet or less	1,400 sf or less
• Average of cottages with height over 15 feet	900 sf or less
Maximum Building/Structure Height	25 ft
Minimum Site Perimeter Setbacks	Same as underlying zone.
Maximum Lot Coverage	45%
Minimum Required Open Space - Courtyard	150 sf per cottage
Vehicle Parking	See Section 73.010.
Areas Owned in Common Common areas must be maintained by a homeowners association or other legal entity. Such legal entity may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions must be recorded and provided to the city prior to issuance of a building permit.	

B. Design Standards

1. Cottage orientation. Cottages must be clustered around a common courtyard as demonstrated by meeting the following standards:
    a. Each cottage within a cluster must have a main entrance that is directly connected to the common courtyard by a pedestrian walkway.
    b. A minimum of 50 percent of cottages within a cluster must:
        1. Be within 10 feet from the common courtyard, measured from the façade of the cottage that includes the main entrance to the nearest edge of the common courtyard; and
        2. Have a main entrance that either faces the common courtyard or is no more than 20 feet from the common courtyard.
    c. Exceptions. An existing dwelling included within a cottage cluster may be excluded from the calculation of cottages oriented toward the common courtyard at the applicant's option.
2. Common Courtyard Design Standards. Each cottage cluster must share a common courtyard that meets the following standards:
    a. The common courtyard must be a single, contiguous piece.
    b. Cottages must abut the common courtyard on at least two sides of the courtyard.
    c. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension and must meet the minimum required open space area standard in the table in Section 75.070(A).
    d. The common courtyard shall be developed with a mix of landscaping, lawn area, pedestrian walkways, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall not exceed 75 percent of the total common courtyard area.
    e. Pedestrian walkways must be included in a common courtyard. Walkways that are contiguous to a courtyard shall count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.
3. Community Buildings. Cottage cluster projects may include community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, day care, or community eating areas. Community buildings must meet the following standards:
    a. Each cottage cluster is permitted one community building, which shall count towards the maximum average floor area, pursuant to the table in Section 75.070(A).
    b. If a community building meets the definition of a dwelling unit and has a footprint that exceeds the maximum footprint in the table in Section 75.070(A) and/or would exceed the maximum number of

cottages in a cottage cluster, a covenant must be recorded against the property stating that the structure is not a legal dwelling unit and will not be used as a primary dwelling.

4. Pedestrian Access.
    a. An accessible pedestrian walkway must be provided that connects the main entrance of each cottage to the following:
        1. The common courtyard;
        2. Shared parking areas;
        3. Community buildings; and
        4. Sidewalks in public rights-of-way abutting the lot or rights-of-way if there are no sidewalks.
    b. The walkway must be hard-surfaced and a minimum of 5 feet wide.
5. Windows and Doors. Standard. Cottages that face a street or alley lot line must meet the following standards:
    a. The front façade must have a minimum of 25 percent windows or pedestrian entrance doors.
    b. Alley facing façade must have a minimum of 15 percent windows or pedestrian entrance doors.
    c. All other street-facing facades must have a minimum of 15 percent windows or pedestrian entrance doors.
    d. Exceptions. The following facades are exempt from these standards:
        1. Facades separated from the street lot line by a dwelling or buildable lot.
6. Parking Design.
    a. Parking location and access. Parking areas shall meet the standards of Section 19.020.
    b. Clustered parking. Off-street parking may be arranged in clusters, subject to the following standards:
        1. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than 5 contiguous spaces.
        2. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than 8 contiguous spaces.
        3. Parking clusters must be separated from other spaces by at least 4 feet of landscaping.
        4. Clustered parking areas may be covered.
    c. Screening. Landscaping, fencing, or walls at least 3 feet tall shall separate clustered parking areas and parking structures from common courtyards and public streets.
    d. Garages and carports.
        1. Individual attached garages up to 200 square feet shall be exempted from the calculation of maximum building footprint for cottages.

2. Individual detached garages must not exceed 400 square feet in floor area.
3. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

7. Accessory Structures.
    a. Accessory structures must not exceed 400 square feet in floor area.
    b. Accessory structures must not be located between a cottage and common open space or courtyard.
8. Existing Structures. On a lot to be used for a cottage cluster project, an existing detached single-unit dwelling on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster project area under the following conditions:
    a. The existing dwelling may be nonconforming with respect to the requirements of this code.
    b. The existing dwelling may be expanded up to the maximum height or the maximum building footprint in Section 75.070(A); however, existing dwellings that exceed the maximum height and/or footprint of this code may not be expanded.
    c. The floor area of the existing dwelling shall not count towards the average cottage size of a cottage cluster.
9. Trash Storage. Shared trash storage facilities for trash and recycling receptacles as defined in Chapter 13 of the IDC shall meet the screening standards of 54.010(C).

SUBCHAPTER 76: AIRPORT DEVELOPMENT DISTRICT

76.005 Purpose

The Airport Development District is intended to accommodate the facilities necessary for general aviation purposes and to minimize potential dangers from, and conflicts with, the use of aircraft at the Independence State Airport. The purpose of the District is to encourage and support the continued operation and vitality of Independence State Airport by allowing certain airport-related commercial and recreational uses in accordance with state law.

76.010 Definitions

A. AIRCRAFT includes airplanes and helicopters, but not hot air balloons or ultralights.

B. AIRPORT means the Independence State Airport.

C. AIRPORT ELEVATION means the highest point of an airport's usable landing area measured in feet from sea level. This is 175 feet above mean sea level for the Independence Airport.

D. AIRPORT SPONSOR. The owner, manager, person or entity designated to represent the interests of an airport.

C. HAZARD TO AIR NAVIGATION means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

E. HEIGHT is for the purpose of determining the height limits in all zones set forth in this ordinance and shown on the Airport Development District map, the datum shall be mean sea level elevation unless otherwise specified.

F. OBSTRUCTION is any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section .030 of this ordinance.

G. RUNWAY is a defined area on the airport prepared for landing and takeoff of aircraft along its length.

H. TREE means any object of natural growth.

76.015 Airport Zones

In order to carry out the provisions of this ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach

surfaces and clear areas as they apply to Independence Airport. Such zones are shown in the Independence Airport Development District map dated May 28, 1980, which is attached to this ordinance and made a part hereof. The various zones are defined as follows:

A. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

a. 1,250 feet for a utility runway; or

b. 1,500 feet for a runway other than a utility runway.

2. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward.

3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

B. Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,000 feet.

C. Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each 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. The width of the primary surface is:

1. 250 feet for utility runways.
2. 500 feet for other than utility runways.

76.020 Application of Airport Development District Provisions

A. In any zoned area where an Airport Development District designation is combined with a primary zone, the following regulations shall apply. If any conflict

in regulation or procedure occurs with zoning districts hereinbefore specified, the provisions of the Airport Development District shall govern.

B. In any area where the Airport Development District designation is combined with a primary zone and which is also subject to the Airport Safety and Compatibility Overlay Zone, if any conflict in regulation or procedure occurs with the zoning districts hereinbefore specified, the provisions of the Airport Safety and Compatibility Overlay Zone shall govern.

76.030 Permitted Uses

All structures and uses within the Airport Development District shall conform to the requirements of Federal Aviation Agency Regulation FAR-77 or successor, and to other federal and state laws regulating structural height, smoke, steam or dust and other hazards of flight, air navigation or public health, safety and welfare.

A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed based operator facilities; a residence for an airport caretaker or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing and other uses.

B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.

C. Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.

D. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.

E. Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.

F. Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic

skills training, but does not include schools for flight attendants, ticket agents or similar personnel.

G. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.

H. Open land for aviation runway protection zone.

I. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

J. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.

K. Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.

L. Agriculture, excluding the commercial ~~arising~~ raising of animals which would be adversely affected by aircraft passing overhead.

M. Landscape nursery, cemetery, or recreation areas, which do not include buildings or structures.

N. Roadways, transportation facilities located within the right-of-way controlled by a public agency, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights, or result in glare, or in any other way impair visibility in the vicinity of the land approach.

O. Pipeline.

P. Underground utility wire.

Q. A structure or building accessory to a permitted use.

R. A single family dwelling, or commercial or industrial use if permitted in the primary zoning district and subject to the requirements of Subsection 76.020.

S. Buildings and uses of a public works, public service or public utility nature.

76.040 Uses Permitted Subject to the Acceptance of the Airport Sponsor.

The following uses and activities and their associated facilities and accessory structures are permitted in the Public Use Airport Zone upon demonstration of acceptance by the airport sponsor.

A. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic recreation and sporting activities authorized under this paragraph include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; and gyrocopter flights, but do not include flights carrying parachutists or parachute drops (including all forms of skydiving).

B. Flights carrying parachutists, and parachute drops (including all forms of skydiving) onto an airport, but only upon demonstration that the parachutist business has secured approval to use a drop zone that is at least 10 contiguous acres. The configuration of the drop zone shall roughly approximate a square or a circle and may contain structures, trees, or other obstacles only if the remainder of the drop zone provides adequate areas for parachutists to land safely.

76.045 Limitations

A. The height of any structure shall be limited to requirements prescribed by the Planning Commission or by any other local ordinance or regulation.

B. Whenever there is a conflict in height limitations prescribed by this ordinance or another pertinent ordinance, the lowest height limitation fixed shall govern. Provided, however, that the height or other limitations and restrictions here imposed shall not apply to such structures or uses customarily employed for aeronautical purposes.

C. Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance 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, resulting glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike

hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

76.050 Nonconforming Uses

The regulations prescribed by this ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

76.055 Marking and Lighting

Notwithstanding the provisions of Section 76.050, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by Oregon Department of Aviation to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

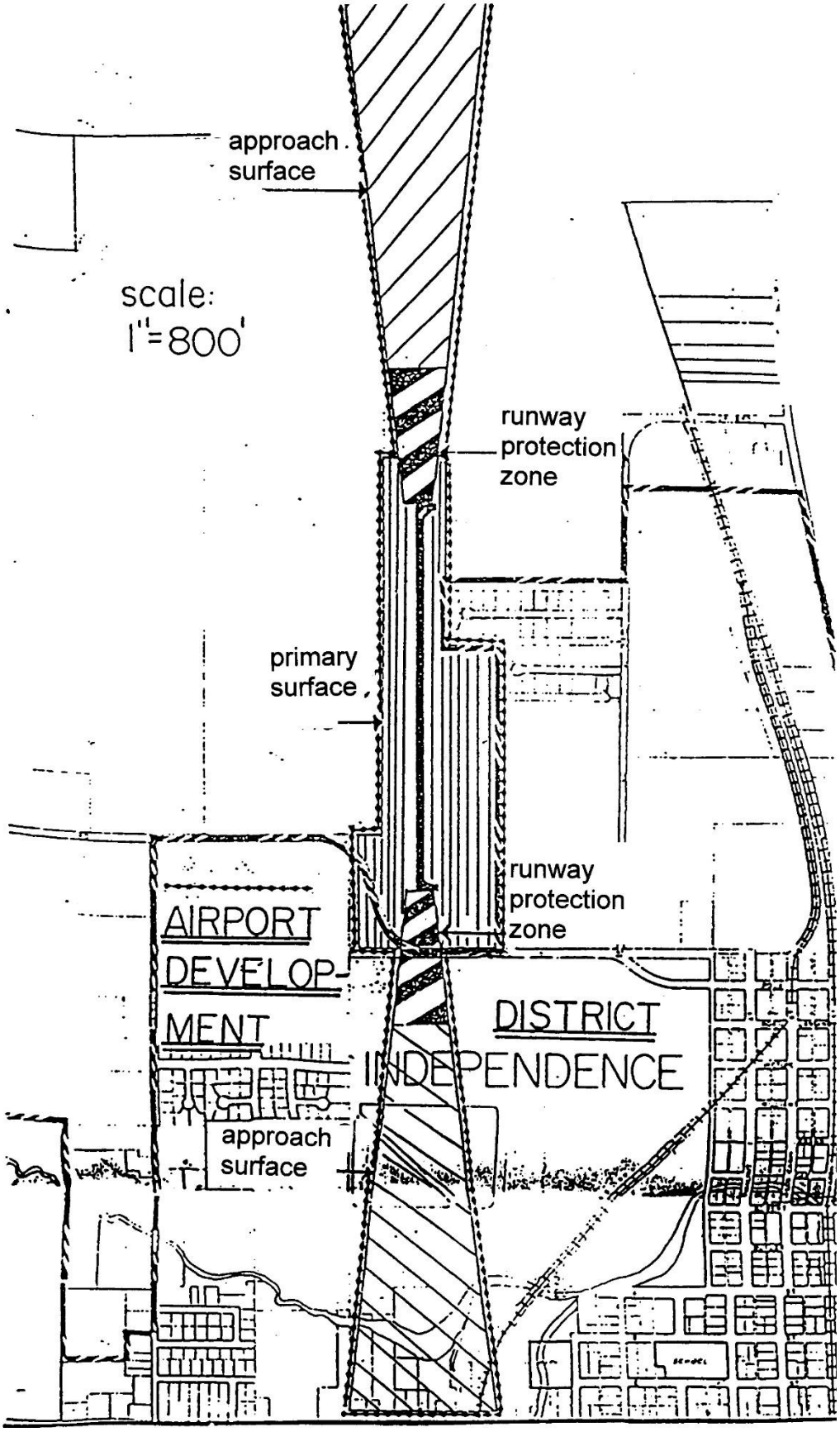
76.060 Variances

Any person desiring to erect any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this ordinance, may apply to the Planning Commission for a variance from such regulations following those procedures for variances set forth in Subchapter 70. The application for variance shall also be accompanied by a determination from the Oregon Department of Aviation as to the effect of the proposal of the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance.

76.065 Notice Requirements

A. Notice of application and hearing will be set out in Subchapter 11 of this ordinance.

B. Notification shall also be provided to the Oregon Department of Aviation by certified mail, with return receipt requested.


approach surface
scale: 1"=800'
runway protection zone
primary surface
runway protection zone
AIRPORT DEVELOP-MENT
DISTRICT
INDEPENDENCE
approach surface

SUBCHAPTER 77: AIRPORT ZONE HEIGHT LIMITATIONS

77.005 Purpose

The purpose of this chapter is intended to prevent the establishment of space obstructions in air approaches through height restrictions.

77.010 Special Definitions

A. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

a. 1,250 feet for a utility runway; or

b. 1,500 feet for a runway other than a utility runway.

2. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward.

3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

B. Airport Hazard means any structure, tree, or use of land which unreasonably obstructs the air space required for the safe flight of aircraft in landing or taking off at Independence Airport, or is otherwise hazardous to such landing or taking off of aircraft.

C. Airport Hazard Area means any area of land upon which an airport hazard might be established if not prevented.

D. Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,000 feet.

E. Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared

hard surface, or planned hard surface, the primary surface ends at each 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. The width of the primary surface is:

1. 250 feet for utility runways.

2. 500 feet for other than utility runways.

77.015 Application of Airport Zone Height Limitations Provisions

A. In any zoned area where an airport approach area is combined with a primary zone, the following regulations shall apply. If any conflict in regulation or procedure occurs with a primary zone herein before specified, the provisions of this chapter shall govern.

B. The Planning Commission shall designate airport approach surface and runway protection zone areas on an Airport Development District Map which is attached to this ordinance and made a part hereof.

C. The following standards shall be applied to the Airport Development District in establishing appropriate height limitations for structures and objects of natural growth:

1. The runway protection zone~~s~~ will be kept free of any height obstructions which might be hazardous to normal air navigation operations, as determined by the State of Oregon Department of Aviation.

2. Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height of up to 35 feet above the surface of the land, except for areas in the approach surface. Height limitations for the approach surface will be based upon the following ratio: slopes 20 feet outward for each foot upward beginning at the end of the paved runway and extending to a horizontal distance of 5,000 feet.

3. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.

77.020 Nonconforming Uses

A. Regulations Not Retroactive - The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the

construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

B. Marking and Lighting - Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markets and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

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

77.025 Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, not in accordance with the regulations prescribed in this chapter, may apply to the Planning Commission for a variance from such regulations following those procedures for variances set forth in Subchapter 70. The application for variance shall be accompanied by a determination from the Oregon Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance. Additionally, no application for variance to the requirements of this chapter may be considered by the Planning Commission unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within fifteen (15) days after receipt, the Planning Commission may act on its own to grant or deny said application.

SUBCHAPTER 78: AIRPORT SAFETY AND COMPATIBILITY OVERLAY ZONE

78.005 Purpose.

The purpose of this overlay zone is to encourage and support the continued operation and vitality of public use airports with only visual approaches by establishing compatibility and safety standards to promote air navigational safety at Independence State Airport and to reduce potential safety hazards for persons living, working or recreating near such public use airports.

78.010 Special Definitions

A. Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

B. Airport Direct Impact Area. The area located within 5,000 feet of an airport runway, excluding lands within the runway protection zone and approach surface.

C. Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.

D. Airport Imaginary Surfaces. Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.

E. Airport Noise Impact Boundary. Areas located within 1,500 feet of an airport runway or within established noise contour boundaries exceeding 55 Ldn.

F. Airport Secondary Impact Area. The area located between 5,000 and 10,000 feet from an airport runway.

G. Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.

H. Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

1. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

a. 1,250 feet for a utility runway; or

b. 1,500 feet for a runway other than a utility runway.

2. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward.

3. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

I. Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

J. Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.

K. FAA. The Federal Aviation Administration.

L. FAA's Technical Representative. As used in this ordinance, the federal agency providing the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to, the USDA-APHIS-Wildlife Services.

M. Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

N. Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet.

O. Obstruction. Any structure or tree, plant or other object of natural growth that penetrates an imaginary surface.

P. Other than Utility Runway. A runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.

Q. Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each 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. The width of the primary

surface is:

1. 250 feet for utility runways.

2. 500 feet for other than utility runways.

R. Public Assembly Facility. A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

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

T. Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of 1,000 feet.

U. Significant. As it relates to bird strike hazards, "significant" means a level of increased flight activity by birds across an approach surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.

V. Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

W. Transitional Surface. Those surfaces that extend upward and outward 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 the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach

surfaces that project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline.

X. Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Y. Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or instrument designations have been approved or planned, or are indicated on an FAA-approved airport layout plan or any other FAA planning document.

Z. Water Impoundment. Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of this ordinance.

78.015 Imaginary Surface and Noise Impact Boundary Delineation.

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface are part of the Independence Zoning Map. All lands, waters and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this overlay zone.

78.020 Notice of Land Use and Permit Applications within Overlay Zone Area.

Except as otherwise provided herein, written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications.

A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 5,000 feet of the sides or ends of a runway.

B. Notice of land use and limited land use applications shall be provided within the following timelines.

1. Notice of land use or limited land use applications involving public hearings shall be provided prior to the public hearing at the same time that written notice of such applications is provided to property owners entitled to such notice.

2. Notice of land use or limited land use applications not involving public hearings shall be provided at least 20 days prior to entry of the initial decision on the land use or limited land use application.

C. Notice of the decision on the land use or limited land use application shall also be provided to the airport sponsor within the same timelines that notice is provided to parties to the proceeding.

D. Notices required under Paragraphs A-C of this section need not be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application meets all of the following criteria:

1. Would only allow structures of less than 35 feet in height;

2. Involves property located entirely outside the approach surface;

3. Does not involve industrial uses, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar transmission facilities or electrical transmission lines; and

4. Does not involve wetland mitigation, creation, enhancement or restoration.

78.030 Height Limitations on Allowed Uses in Underlying Zone.

All uses permitted by the underlying zone shall comply with the height limitations in this Section. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control.

A. Except as provided in subsections B and C of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.

B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.

C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA.

78.040 Procedures.

An applicant seeking a land use or limited land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

A. A map or drawing showing the location of the property in relation to the airport imaginary surfaces. The Community Development Department shall provide the applicant with appropriate base maps upon which to locate the property.

B. Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.

C. If a height variance is requested, letters of support from the airport sponsor, the Department of Aviation and the FAA.

78.050 Land Use Compatibility Requirements.

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of this chapter as provided herein.

A. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall be attached to any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn. [NOTE: FAA Order 5100.38A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.]

B. Outdoor lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

C. Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within

an approach surface or on nearby lands where glare could impede a pilot's vision

D. Industrial emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.

E. Communications Facilities and Electrical Interference. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall comply with all other requirements shall be coordinated with the Department of Aviation and the FAA prior to approval.

F. Use prohibitions in RPZ. Notwithstanding the underlying zoning, the following uses are prohibited in the RPZ.

1. New residential development.

2. Public assembly facilities.

G. Landfills. No new sanitary landfills, sewage lagoons, sewage sludge disposal facilities or similar facilities shall be permitted within 5,000 feet from any airport runway used by only piston-type aircraft or within 10,000 feet of any airport runway used by turbojet aircraft. Expansions of existing landfill or sewage treatment or disposal facilities within these distances shall be permitted only upon demonstration that the landfills are designed and will operate so as not to increase the likelihood of bird/aircraft collisions. Timely notice of any proposed expansion shall be provided to the airport sponsor, Aviation and the FAA, and any approval shall be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result.

H. Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas. The land uses identified in Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in this section, a limited use means a use that is allowed subject to special standards specific to that use.

TABLE 1
Land Uses

Use	Runway Protection Zone[1]	Approach Surface[8]	Direct Impact Area
Public Airport	L[2]	L[9]	P
Residential	N	L[10]	L[10]
Commercial	N	L[9]	L[14]
Industrial	P	P	P
Institutional	N	L[9]	L[14]
Farm Use	P[3]	P[3]	P[3]
Roads/Parking	L[4]	P	P
Utilities	L[5]	L[5]	L[5]
Parks/Open Space	L[6]	P	P
Golf Courses	L[7]	L[7,9]	L[7]
Athletic Fields	N	L[9]	L[13]
Sanitary Landfills	N	N	N
Water Treatment Plants	N	N	N
Mining	N	L[11]	L[11]
Water Impoundments	N	N	P
Wetland Mitigation	N	L[12]	L[12]

P = Use is Permitted
L = Use is Allowed Under Limited Circumstances (see Footnotes)
N = Use is Not Allowed

Table 1 Footnotes:

1. No structures shall be allowed within the Runway Protection Zone. Exceptions shall be made only for structures accessory to airport operations whose location within the RPZ has been approved by the Federal Aviation Administration.

2. In the RPZ, public airport uses are restricted to those uses and facilities that require location in the RPZ.

3. Farming practices that minimize wildlife attractants are encouraged.

4. Roads and parking areas are permitted in the RPZ only upon demonstration that there are no practicable alternatives. Lights, guardrails and related accessory structures are prohibited. Cost may be considered in determining whether practicable alternatives exist.

5. In the RPZ, utilities, powerlines, and pipelines must be underground. In approach surfaces and in airport direct and secondary impact areas, the proposed height of utilities shall be coordinated with the airport sponsor and the Department of Aviation.

6. Public assembly facilities are prohibited within the RPZ.

7. Golf courses may be permitted only upon demonstration, supported by substantial evidence, that management techniques will be utilized to reduce existing wildlife attractants and avoid the creation of new wildlife attractants. Such techniques shall be required as conditions of approval. Structures are not permitted within the RPZ. For purposes of this Chapter, tee markers, tee signs, pin cups and pins are not considered to be structures.

8. Within 10,000 feet from the end of the primary surface of a non-precision instrument runway, and within 50,000 feet from the end of the primary surface of a precision instrument runway.

9. Public assembly facilities may be allowed in an approach surface only if the potential danger to public safety is minimal. In determining whether a proposed use is appropriate, consideration shall be given to: proximity to the RPZ; density of people per acre; frequency of use; level of activity at the airport; and other factors relevant to public safety. In general, high-density uses should not be permitted within airport approach surfaces, and non-residential structures should be located outside approach surfaces unless no practicable alternatives exist.

10. Residential densities within 500 feet of the outer edge of the RPZ, shall not exceed 1 unit/acre;

11. Mining operations involving the creation or expansion of water impoundments shall comply with the requirements of this Chapter regulating water impoundments.

12. Wetland mitigation required for projects located within an approach surface or airport direct impact area shall be authorized only upon demonstration, supported by substantial evidence, that it is impracticable to provide mitigation outside of these areas. Proposals for wetland mitigation shall be coordinated with the airport sponsor, the Department of Aviation, the FAA, and wetland permitting agencies prior to the issuance of required permits. Wetland mitigation shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways and approach surfaces. Conditions shall be imposed as are appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

13. Within the transition surface, residential uses and athletic fields are not permitted.

14. Within the transition surface, overnight accommodations, such as hotels, motels, hospitals and dormitories, are not permitted.

78.070 Wetland Mitigation, Creation, Enhancement and Restoration within Approach Surfaces and Airport Direct Impact Boundaries.

A. Wetland mitigation, enhancement or restoration projects located within approach surfaces and direct impact area boundaries shall be allowed upon demonstration of compliance with the requirements of this Section.

B. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this ordinance and located within approach surfaces and direct impact area boundaries are recognized as lawfully existing uses.

C. To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces and direct impact area boundaries is encouraged.

D. Applications to expand wetland mitigation projects in existence as of the effective date of this ordinance, and new wetland mitigation projects, that are proposed within approach surfaces and direct impact area boundaries shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:

1. It is not practicable to provide off-site mitigation; or

2. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.

E. Wetland mitigation permitted under subsection D. of this Section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.

F. Applications to create, enhance or restore wetlands that are proposed to be located within approach surfaces and direct impact area boundaries, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:

1. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and

2. The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.

G. Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this Section shall be coordinated with the airport sponsor, the Department of Aviation, the FAA and FAA's technical representative, the Oregon Department of Fish & Wildlife (ODFW), the Oregon Division of State Lands (DSL), the US Fish & Wildlife Service (USFWS), and the US Army Corps of Engineers (Corps) as part of the permit application.

H. A decision approving an application under this Section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

78.080 Nonconforming Uses.

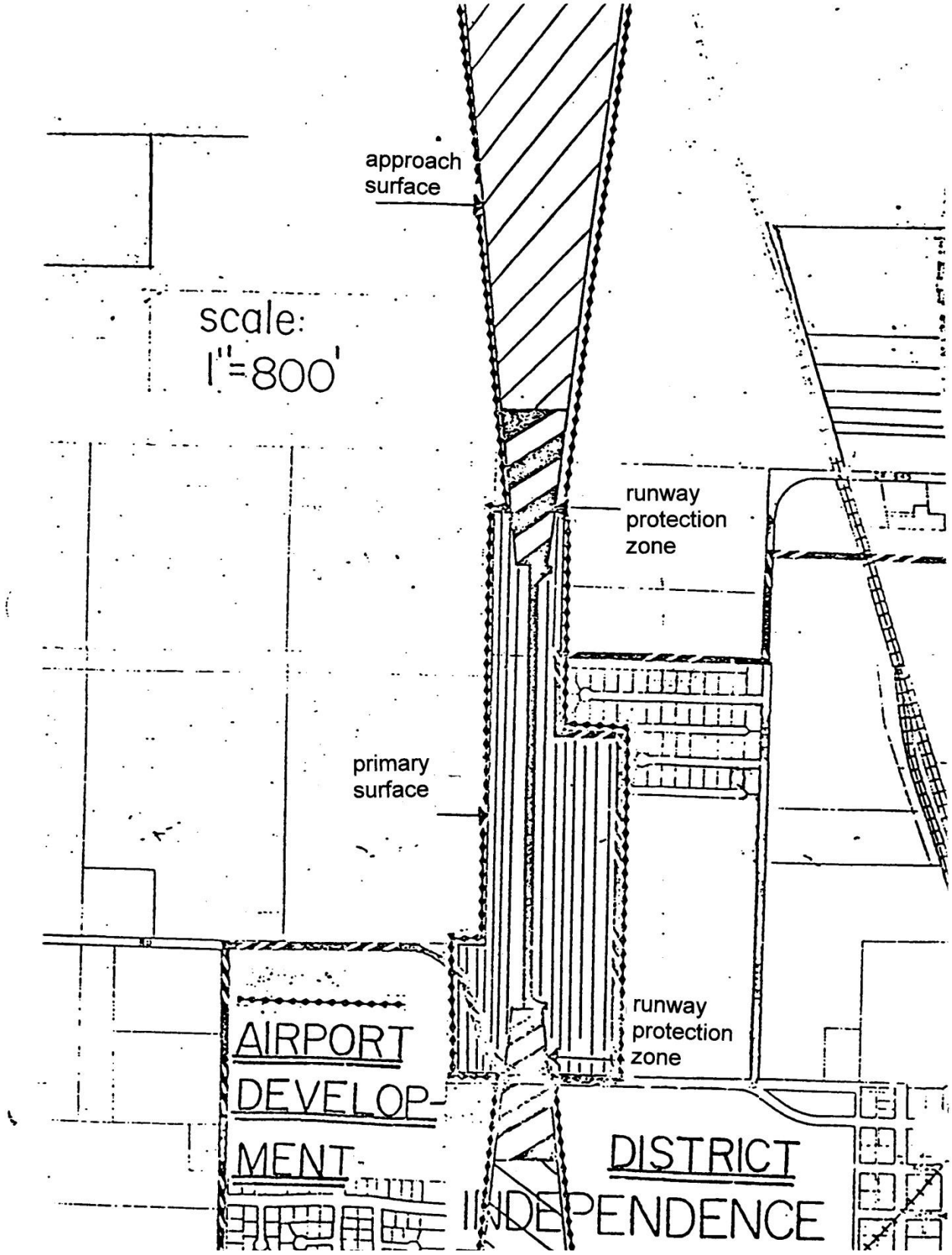
A. These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this overlay zone.

B. Notwithstanding subsection A. of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.

C. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this overlay zone.

78.090 Avigation Easement.

Within this overlay zone, the owners of properties that are the subjects of applications for land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of 50% or 1,000 square feet, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the airport sponsor. The avigation easement shall be in a form acceptable to the airport sponsor and shall be signed and recorded in the deed records of the County. The avigation easement shall allow unobstructed passage for aircraft and ensure safety and use of the airport for the public. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.


approach
surface
scale:
1"=800'
runway
protection
zone
primary
surface
runway
protection
zone
AIRPORT
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MENT
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SUBCHAPTER 80: SITE DESIGN REVIEW REQUIREMENTS

80.10 PURPOSE.

The purposes and objectives of site development requirements and the site design review procedure are to:

A. Ensure that site development plans are designed in a manner, which ensures proper functioning of the site, encourages originality, flexibility and innovation, and maintains a high quality visual environment;

B. Conserve the city's natural beauty and historic and visual character by giving proper attention to the exterior appearance of structures and improvements and by insuring that structures and improvements are properly related to their sites, to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping;

C. Protect and enhance the city's visual appeal and thus stimulate and stabilize commercial and industrial activity;

D. Stabilize and improve property values, prevent blighted areas and, thus, increase tax revenues;

E. Ensure that adequate public facilities are available to serve development as it occurs and that proper attention is given to site planning and development so as to not adversely impact the orderly, efficient and economic provision of public facilities and services.

F. Achieve the benefit of pleasant environments for living and working on behavioral patterns and, thus, decrease the cost of governmental services and reduce opportunities for crime through careful consideration of physical design and site layout;

G. Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of the city's favorable environment and, thus, promote and protect the peace, health and welfare of the city.

80.20 PROCEDURE

A. Site Development Review shall be applicable to all new developments, major remodeling of existing developments except:

1. Single-family detached dwellings.

2. A duplex.

3. Any one-time commercial or industrial remodel or expansion that does not exceed 25% of the total square footage of an existing structure. Multiple remodels or expansions that cumulatively increase the square footage of an existing structure by 25% or more of its original square footage shall require Site Development Review. In addition, any expansion of a building that would add more than 8,000 square feet to a structure shall also require Site Development Review.

4. Any new development, change of occupancy, or commercial or industrial remodel, that does not intensify the use of the property by increasing the number of customers, vehicle and pedestrian traffic to the site, parking requirements, etc.

B. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

C. No development or building permit shall be issued for any development within the city until the plans, drawings, sketches and other documents required under Section 80.30.005 have been reviewed and approved by the City in conformity with the criteria specified in this subchapter.

D. For purposes of this section the term "development" shall mean land use, limited land use building permit, or permit applications of any kind, or the erection, construction or exterior remodeling of buildings, structures, parking lots, streets and roads, and signs in all zones, except as noted in Section 80.20(A).

E. The provisions of this chapter shall apply to all accessory buildings, structures, exterior signs and other site features, however related to the major buildings or structures.

F. Site design authority may be extended for up to five years for phased developments. The requested phases must be applied for and approved in the original site design review application. Phased developments not completed within five years must reapply for site design review.

G. Development in Accord with Plans. Construction, site development and landscaping shall be carried out in a substantial accord with the plans, drawings, sketches and other documents approved by the city, unless altered with city approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and replacement of any part of the building or landscaping which does not involve a substantial change from the goals and objectives of this subchapter. Proposed substantial changes shall be submitted to the city for approval and shall be subject to the procedures and requirements for new site design review proposals.

80.20.010 Application of Other Requirements. The requirements of this subchapter are in addition to all other requirements, including but not limited to the Independence City Code, Zoning and Development Ordinance, and Comprehensive Plan.

80.20.015 Application Process. Except as provided in Section 80.20.020, site design review applications shall be processed as Type I actions as described in Subchapter 11. The City may deny a development permit for failure to adequately address or comply with the standards set forth in Subsection 80.40.

80.20.020 Review of Large-Scale Commercial Developments. Site design review applications for commercial developments with more than 40,000 square feet of gross floor area shall be processed as Type III actions as described in Subchapter 11.

80.30 SITE DESIGN REVIEW APPLICATION REQUIREMENTS

80.30.005. Submission of documents. An applicant for a building or other permit who is subject to site design review shall submit to the City, in addition to the requirements of Subsection 90.40 of the Independence City Code, the information listed below. The applicant shall submit three copies each of the required site analysis diagram, site development plan and landscape plan unless authorized by the City to combine the required information into one plan. When a public hearing is required, one additional set shall be submitted which is of a size that is conveniently reproducible, not to exceed 11 inches by 18 inches.

A. Site Analysis Diagram - drawn to scale, indicating the following information:

1. Adjacent land-uses (i.e., whether vacant, or occupied by a 2-story apartment building, grocery store, etc.). If there is a residence within 50 feet of the subject site, indicate the specific location of the building, its size and distance from the subject property boundary.

2. Location of trees greater than four inches in diameter when measured five feet above the ground; indicate if evergreen or deciduous. Where the site is heavily wooded, only those trees that will be affected by the proposed development need to be sited accurately. The remainder of trees may be shown on the map in the general area of their distribution.

3. Topography.

4. Natural drainage; and arrows indicating the direction of the natural drainage.

5. Lot dimensions and total area of the lot.

B. Site Development Plan - drawn to scale, indicating the following information:

1. Legal description of the lot;

2. Dimensions and total area of the lot;

3. Location of all existing and proposed structures, including minimum distances from all structures to all lot lines;

4. The total area in terms of percentages, devoted to the following:

   a. Structures
   b. Parking
   c. Landscaping
   d. Transportation facilities

5. Rights-of-way of all abutting streets or paths whether public or private, and access to the site;

6. Parking plan showing location, size and number of all parking spaces, driveways and access points.

7. Locations and dimensions of all easements and nature of the easements;

8. Location of any non-access strips;

9. Other site elements which will assist in the evaluation of site development; including (1) existing and proposed water, sewer and storm drain connections to the existing public utility system, (2) final building, parking area, and lot corner elevations, (3) drainage patterns.

10. Exterior lighting; the type, height and areas of illumination.

11. Service areas for uses such as mail delivery and trash disposal, and bicycle facilities consistent with subchapter 73 and the City's Comprehensive Master Bicycle Plan.

12. Location, size, materials, color and method of illumination of all signs.

13. Utility Plan. A preliminary utility plan showing existing and proposed on and off-site utilities in sufficient detail to evaluate the intent and feasibility of the proposed method of service and to determine its impact on the public utility systems.

14. Locations and sizes of existing and proposed fire service lines, hydrants, and other fire suppression facilities within and adjacent to the development.

15. Final building, parking area, lot grading elevations and lot drainage patterns;

16. Additional data to be provided for multiple-family residential developments or dwelling structures which contain three or more units:

a. Outdoor play area, if any.
b. Locations and dimensions of all recreation areas, equipment, recreation and service buildings, and areas of recreation space in square feet.

C. Landscape Plan - drawn to scale, indicating the following information:

1. Lot dimensions, outline of structure(s), scaled location of windows and doors;

2. The size, species (identifying both botanical and common names) and location of plant material and other landscaping materials; those to be retained on the site and those newly planted and landscaping materials and methods of construction;

3. The dimensions, location, and area (in square feet) for each landscape area intended to fulfill the requirements of Subchapter 54.

4. The size and location of all storm water facilities intended to fulfill the requirements of the Independence Public Works Design Standards.

5. Locations and types of fences, walls, berms, and landscaped areas intended to fulfill requirements for perimeter screening.

6. Tree staking details;

7. The city may require a solar access analysis to determine the shading characteristics of the proposed buildings and trees (at mature heights) on December 21st between 9:00 A.M. and 3:00 P.M.

D. Architectural Drawings - including floor plans and elevations.

E. Irrigation Specifications Automatic underground irrigation systems are to be indicated on the landscape plan unless a licensed landscape architect certifies that the landscaping will likely survive without irrigation.

F. Traffic Impact Analysis – A traffic impact analysis report, prepared by an Oregon professional traffic engineer or an Oregon registered Professional Engineer with expertise in traffic engineering, shall be required for all development permits and land use applications which generate a net increase of 200 or more vehicle trips per day or are likely to increase the V/C ratio or decrease the safety of a State transportation facility. Traffic impact analysis reports shall include:

1. The total estimated vehicular, pedestrian, bicycle and other transit service trips to be generated from the proposed development;

2. The impact of the total estimated vehicular, pedestrian, bicycle and other transit service trips on the existing street, sidewalk, bicycle and other transit systems within the City; and

3. Identification of improvement necessary to mitigate the total impact from the proposed development as identified in item 2.

G. A non-refundable application fee as set by the city council.

H. Any other information reasonably required to achieve the intent of this subchapter, the city zoning regulations and the comprehensive plan.

80.40 REVIEW CRITERIA AND STANDARDS

The following standards shall be utilized in reviewing the plans, drawings, sketches and other documents required by this subchapter. These standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the city. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation.

A. Preservation of landscape and significant wildlife habitat. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree, wetland and soils removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

B. Environmental design considerations. Proposed structures shall be located and designed to insure harmony with the natural environment, including protection of steep slopes, vegetation and other naturally sensitive areas for wildlife habitat and shall provide proper buffering from less intensive uses. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, street access or relationships to natural features such as vegetation or topography.

C. Traffic, parking and circulation considerations. With respect to vehicular, bicycle, and pedestrian circulation, including walkways, interior drives and parking,

special attention shall be given to the arrangement and relationships of buildings in terms of pedestrian accessibility, location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of proposed buildings and structures and the neighboring properties. Based on the anticipated bicycle and pedestrian traffic generated, consideration may need to be given to improvements to the right-of-way such as installation of lighting, signalization, turn lanes, paving, curbs, sidewalks, bikeways and other facilities required because of the increased bicyclist and pedestrian traffic generated by the development. Right-of-way improvements shall be required if increased vehicular traffic generated by the development will cause streets within the City of Independence to exceed their V/C standards, as shown in the following two tables:

Maximum Volume to Capacity Ratios for City-owned Streets

City-owned streets bounded by B Street to E Street and 2nd Street to Main Street	.95
City-owned streets outside of the area bounded by B Street to E Street and 2nd Street to Main Street	.80

Maximum Volume to Capacity Ratios for State-owned Streets

Highway Category	STAs	Outside of STAs where posted speed <=35 mph, or a Designated UBA	Outside of STAs where speed >35 mph	Outside of STAs where speed limit >=45 mph
District/Local Interest Roads	.95	.90	.85	.80

New streets built as a part of developments must be designed to meet the V/C standards in the tables above.

D. Landscaping considerations. The following factors shall be considered by the applicant when planning the landscaping in order to accomplish the purpose of this section. The City Manager or designee will have the authority to deny an application for failure to comply with any or all of these conditions:

1. Compatibility with the proposed project and the surrounding and abutting properties and the uses occurring thereon. Noise reduction shall be considered by planting dense vegetation or berming when residential structures are located adjacent to a street of at least arterial street status.

2. Screening the proposed use by sight-obscuring, evergreen plantings, shade trees, fences, or combinations of plantings and screens.

3. The retention of existing trees and natural areas that may be incorporated in the development of the project. The existing grade should be preserved to the maximum practical degree. Existing trees shall be provided with a watering area equal to at least one-half the crown area.

4. The development and use of islands and plantings therein to break up parking areas.

5. The use of suitable street trees in the development of new subdivisions, shopping centers and like developments. Certain trees shall be prohibited in parking areas: poplar, willow, fruit, nut, birch, conifer and ailanthus.

6. The requirements of Subchapter 54.

E. Crime prevention considerations. Criminal activity may be reduced by paying specific attention to landscaping, parking areas, walkways, lighting, entries and exits and visibility and by having laundry areas and shared recreational facilities, such as pools or recreational facilities, located in a common area with visibility from individual units. Addresses of the buildings should be clearly visible from the adjacent public street.

F. Surface Water Drainage. Special attention shall be given to proper grading and contouring of the site, on-site surface drainage and on-site storage of surface water facilities, when necessary, so that removal of surface waters will not adversely affect neighboring properties, public rights-of-way or the public storm drainage system. All storm water facilities shall comply with the requirements of the Independence Public Works Design Standards.

G. Utility Service. Any utility installation above ground shall be located so as to have an harmonious relation to neighboring properties and site. The proposed method of sanitary sewage disposal from all buildings shall be indicated.

H. Advertising Features. In addition to the requirements of the city's sign regulations, the size, location, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures or features shall be compatible with and shall not detract from the design of proposed buildings and structures and the surrounding properties.

I. Special Features. Exposed storage areas, garbage collection areas, exposed machinery installations, surface areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall be required to prevent their being incongruous with the existing or contemplated

environment and its surrounding properties. For multiple-family residential developments, consideration shall be given to outdoor storage facilities for articles such as barbecues, outdoor furniture and bicycles.

J. Energy Conservation. Special consideration shall be given to measures designed to promote energy conservation which is promoted by one or all of the following measures:

1. Use of evergreen plantings so that the trees at maturity will buffer against winter winds.

2. Use of windbreaks and avoidance of large areas of window glass and entry doors on extreme weather-exposed sides of a structure.

3. Design and orientation of buildings and windows to enhance unobstructed solar access and passive solar collection while using architectural shading devices to reduce summer heat gain.

80.60 PERFORMANCE STANDARDS FOR INDUSTRIAL DEVELOPMENT

The discharge into the environment of solids, liquids or gases in such quantities as to be detrimental to the public health, safety and welfare, to cause injury to human, plant or animal life or to property, or to violate air, water, soil or wetlands standards promulgated by local, State or Federal law is prohibited. In any industrial zone, no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

A. Heat, glare and light:

1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building; such heat and glare shall not be discernible at or beyond the property line;

2. Exterior lighting shall be directed away from and shall not reflect on adjacent properties.

B. Noise shall be muffled and shall not be objectionable due to intermittence, frequency or shrillness and shall not exceed standards established by local, State or Federal law.

C. Sewage: Adequate provisions shall be made for the disposal of sewage and waste, which provisions shall meet the requirements established by local, State or Federal law.

D. Vibration: No vibration, other than that caused by highway vehicles and trains shall be permitted if such vibration will endanger the health, welfare or safety of the public or constitute a public nuisance.

E. General Standards: No activity shall be conducted in any industrial zone which will cause the emission of noise, vibration, residue, discharge or odor which is offensive to the community.

80.70 ADDITIONAL REQUIREMENTS

80.70.005 To the extent necessary to meet the criteria for site design review contained in this subchapter, the City may impose the following additional requirements on a development subject to advising the applicant of the reason in writing.

A. Establish the suitability of the landscape plan by having it prepared by a licensed landscape architect.

B. Obtain approval of a grading and drainage plan for the collection, treatment and transmission of storm or ground water, from an engineer licensed to practice in the State of Oregon.

C. Establish vehicle, bicycle, and pedestrian access facilities with due consideration to size, location and grade, safety and convenience.

D. Dedicate and improve public street rights-of-way, a pedestrian way, bikeway or bike path, or an easement for utilities, a waterway or slope protection.

E. In the case of commercial or industrial development, provide access by a frontage road having limited and controlled access onto an arterial street by means of traffic signals, traffic control islands or other means that will preserve the traffic-carrying capacity and safety of the arterial street and will avoid the cumulative effect of individual access points directly onto the arterial street.

F. Provide access to a street that intersects an arterial street instead of taking access directly from the arterial street in order to preserve the traffic-carrying capacity and safety of the arterial street and avoid the cumulative effect of individual access points directly onto the arterial street.

G. Limit hours of operation to reduce conflicts with other uses in the surrounding area.

SUBCHAPTER 81:WIRELESS COMMUNICATION FACILITIES

81.010 Wireless Communication Facilities.

"WIRELESS COMMUNICATION FACILITY" means an unstaffed facility for the transmission or reception of radio frequency (RF) signals usually consisting of an equipment shelter, cabinet, or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices. It is the intent of the City Council that this definition shall be interpreted and applied as technology evolves to reflect changes in the manner of providing wireless communication services. These shall include devices defined and regulated by the 1996 Telecommunications Act.

81.030 Wireless Communication Permits.

A. During the review for a wireless communications facility conditional use permit, the City shall consider the design, setback, and visual buffering of the associated shelter or enclosed facility. Towers and/or antenna facilities shall be disguised whenever possible, such as the use of existing billboards, church steeples, and trees.

B. The demonstrates that sharing of City declares its legislative policy to restrict and minimize the number of towers necessary to serve the community of Independence. A conditional use permit issued for any wireless communications facility shall be valid for a period not to exceed five years. Sharing of tower facilities by more than one service provider shall be required, unless the applicant these facilities is not technically feasible. The design of all towers must be such as to accommodate multiple co-locators to serve the reasonably anticipated users of wireless communication facilities. Any application for a new tower must contain a scientific study demonstrating that the conditional uses previously authorized for this use are inadequate to serve the community of Independence. The renewal of conditional uses shall be subject to a finding that the permittee has even-handedly administered the requests from all vendors of Wireless Communication Services. A conditional use permit may be renewed by the applicant for additional five-year increments for a total of 25 years. The sole review criteria for renewal of a wireless communication conditional use shall be whether the facility and the applicant shall have fully complied with all conditions and requirements of the original installation.

C. All Wireless Communication facilities are prohibited in all residential zones, and within 350 feet of any residential zones. Any existing facilities at the time of annexation or rezoning must be phased out (amortized) over a period of five years from the date of annexation or rezoning. If a Wireless Communication Facility is not used for a period of one year, the conditional use permit shall automatically expire at the end of the one year period. The facility shall be dismantled within ninety days of the expiration of the conditional use permit. Applicant shall keep timely records of the use and maintenance of the site during the life of the permit.

SUBCHAPTER 82: SMALL WIND AND SOLAR ENERGY SYSTEMS

82.010 Small Wind Energy Systems

A. Accessory use. A small wind energy system is allowed as an accessory use in all zones in which structures are permitted.

B. General standards.

1. The minimum distance between the ground and any part of a rotor blade must be at least 20 feet.

1. Small wind energy systems may not be illuminated, except as needed to prevent creating a hazard to aircraft, nor may they bear any signs or advertising.

2. Small wind energy systems must have automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the support structure, rotor blades, and turbine components.

3. All wiring serving small wind energy systems must be underground.

4. Noise produced by small wind energy systems may not exceed 55 dBA measured at the property line.

5. Small wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, with any public safety agency or organization (including but not limited to police, fire, and ambulance) radio transmissions, or with any microwave communications link. The owner shall bear the costs of immediately eliminating any such interference should any occur, or must immediately shut down the system or parts of the system causing the interference.

6. A finish (paint/surface) must be provided for the small wind energy system that reduces the visibility of the facility, including the rotors. In most circumstances this condition may be satisfied by painting the support structure and rotors with flat light haze gray paint. If the support structure is unpainted it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.

7. The diameter of the area swept by the rotors may not exceed 25 feet.

C. Free-standing systems, additional standards. Small wind energy systems

may be mounted on a tower detached from other structures on the lot.

1. Setback. The minimum setback from any property line, overhead utility line, or public right-of-way shall be a distance equal to the vertical distance from the ground to the tip of a wind generator blade when the tip is at its highest point unless the affected utility, property owner, or governmental entity grants written permission for a lesser setback. In addition to the system's structures, buy wires associated with towers shall meet applicable setbacks for the zone district.

1. Height. Support structures for free-standing systems may not exceed 50 feet in height in any residential zone, or 80 feet in height in any other zone.

2. Security. Support structures for free-standing systems must be unclimbable from the ground to a height of at least 15 feet.

3. Number. A maximum of one (1) free-standing small wind generator system may be allowed on a parcel of 25,000 square feet or less. One (1) additional free-standing system is allowed for each 12,500 square feet of lot area above 25,000 square feet.

D. Roof-mounted systems, additional standards. Small wind energy systems may be mounted on the roof of a structure as an appurtenance.

1. Height. Roof-mounted systems may not be more than five (5) feet over the maximum allowed height for the structure.

2. Number. There is no maximum number of roof-mounted systems permitted.

3. Engineering report. Before any roof-mounted system is mounted the property owner must submit a report prepared by an Oregon Licensed professional engineer attesting to the fact that the structure to which the system will be mounted is or will be sufficiently strong to support the system and to withstand the wind, vibratory, and other loads to which it would be subjected as a result of mounting the system on int. This report is subject to approval by the Community Development Director prior to the mounting of the system.

82.030 Small Solar Energy Systems

A. Accessory use. A small solar energy system is allowed as an accessory use in all zones in which structures are permitted.

B. General standards.

1. Ground-mounted solar energy systems are considered structures and must meet applicable setbacks for the zone district.

2. Roof-mounted systems shall be mounted as flush as possible to the roof but in any case not more than three (3) feet above the existing roof.

SUBCHAPTER 84: MOBILE VENDING LOCATIONS

84.010 Purpose.

The purpose of this subchapter is to regulate the locations of mobile vending devices and mobile food units.

84.020 Applicability.

This subchapter does not apply to:

A. Lemonade stands and other similar limited sales by minors.
B. Garage sales.
C. Car wash fundraisers.
D. Vendors at farmers' or flea markets while working under the event organizer's city-granted authorization.
E. Mobile vendors conducting business in association with a community event or on a temporary street closure while working under the event organizer's city granted authorization.
F. The sale of raw agricultural products or commodities marketed for human consumption, where the vendor does not prepare, process or convert the item, for no more than seven days within a 30-day period.

84.030 Definitions.

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this subchapter, except where the context clearly indicates a different meaning:

“Conduct business” means carrying, conveying, transporting, selling or offering for sale food or beverage of any type or fresh cut flowers, balloons, souvenirs, other non-food merchandise for immediate delivery, or service either from a mobile vending device or as a pedestrian.

“Mobile food unit” is any moveable motor vehicle, trailer or wagon that is used for the purpose of preparing, processing or converting food for immediate consumption as a drive-in, drive-through, curb or walk-up service.

“Mobile vending device” includes devices used to conduct business, such as pushcarts as defined in this section, motorized vehicles, trailers, recreational vehicles, or any device in, upon or by which any person or property is or may be transported, moved or drawn or any structure or enclosure, which because of its size, construction or use of materials is not regulated by the Uniform Building Code. Mobile vending devices include mobile food units, as well as mobile devices that sell items other than food.

“Mobile vending location” is a location approved by the City to conduct mobile vending. A mobile vending location may be either a mobile vending pad or a mobile vending pod.

“Mobile vending pad” means a location that allows one mobile vendor and their associated amenities.

“Mobile vending pod” means a location that allows two or more mobile vendors and their associated amenities under common management on one property.

“Mobile vendor” is any person(s), entity(ies) or other parties that conduct business either from a mobile vending device, pushcart, table, tent or other temporary device.

“Pushcart” means a wheeled, non-motorized vehicle of such size and weight that it may be easily moved by no more than two people.

“Sidewalk” means that portion of the street between the curblines or the lateral lines of a roadway and the adjacent property line intended for the use of pedestrians.

84.040 Standards

Mobile vending locations shall be processed using the Site Design Review requirements in Subchapter 80. The following standards shall be used by the City Manager or designee to process the permits:

A. Allowed zones. Mobile vending locations are allowed in all zones except the Low Density Residential (RS), Medium Density Residential (RM), High Density Residential (RH), and Mixed Density Residential (MX) zones.

B. General location requirements. Mobile vending locations are only allowed in paved parking lots or other hard surface areas.

C. Use of public right-of-way or city property:

1. Mobile vending pads are not allowed within a public right-of-way or on other city property, unless:

a. The applicant demonstrates that the use will not have a negative impact to pedestrian or vehicular travel and
b. The city agrees to the use of the location prior to the submittal of the application.

2. Mobile vending pods are not allowed within a public right-of-way or on city-owned property, unless the city initiates the application.

D. Clear travel ways. Mobile vending locations, including all vehicles, devices and items associated with the operation, shall not obstruct travel lanes, driveways,

drive aisles of any off-street parking area, or pedestrian pathways. The City Manager may consider adopted, non-discretionary city standards, including but not limited to the standards set forth in the Independence Development Code and the City Public Works Standards to ensure this standard is met.

E. Sufficient parking. Mobile vending locations shall only be allowed in areas that have adequate parking for the use and any other activities on the site. The number of spaces needed for mobile vending locations shall be determined using the Table in Section 73.010, and be calculated based on the amount of seating area that is available for restaurant uses and the amount of display area that is available for retail and service uses. If the location fails to maintain adequate parking at any point during the life of the use, the city may revoke the permit pursuant to Section 84.040(O).

F. Disposal of waste. Locations approved for mobile vending shall maintain clean environs, pick up any litter that is deposited by any person on the subject property and dispose of the waste generated by mobile vending activities.

G. Utilities.

1. Mobile Vending Pads. A mobile vending pad that is intended to accommodate a mobile food unit may connect to City services or utilize self-contained water and graywater tanks. When an applicant seeks to rely on a tank to store graywater, the mobile vendor that utilizes the site shall ensure that the unit is regularly pumped.

2. Mobile Vending Pods.

    a. Water and Sewer Service. Connection to the City water and sewer systems are required for all mobile vendor pods. Applicable City Public Works Design Standards and/or the Oregon Plumbing Specialty Code standards shall be met.
    b. Stormwater. Stormwater treatment, when required, shall be consistent with the Independence Public Design Standards.

H. System development charges. Applicable System Development Charges shall be paid prior to the issuance of any development permits in accordance with the Independence Municipal Code, Chapter 34, Article VII, Utility System Development Charges.

I. Lighting. Site lighting proposed for a mobile vending location shall be shielded and directed downward and shall not spill onto adjacent properties.

J. Signage.

1. Mobile Vending Pads. Signs for a mobile vending pad shall be limited to what may be displayed on the mobile vending unit and a sign that meets the standards for sandwich board or temporary signs in Independence Development Code Section 58.040(N). No feather flags or other signs prohibited in IDC 58.150 are allowed.

2. Mobile Vending Pods. Signs for a mobile vending pod (and any other use on a subject site) shall meet the size standard in Subchapter 58.190(A). Individual mobile vending devices may be allowed to have additional signage on the mobile vending device and to have a sandwich board or temporary sign so long as the sign is located entirely on the site associated with the mobile vending pod. No feather flags or other signs prohibited in IDC 58.150 are allowed.

K. Drive through not allowed. No location proposed for mobile vending shall operate as a drive-through facility, as defined in the Independence Development Code, Subchapter 13.

L. Spacing requirements. All mobile vending units shall meet the setbacks for the underlying zone and allow five feet of separation between each unit. Potentially flammable and/or explosive items shall additionally meet the setbacks required in the Oregon Fire Code.

M. Restroom Facilities.

1. A mobile vending pad shall be located within a 300-foot walking distance of an available permanent restroom for employees during all anticipated hours of operation. For any property that is not under the control of the applicant, a signed agreement that allows the use of the restroom shall be provided as part of the application.

2. A mobile vending pod shall have a permanent restroom that is available for employees during all anticipated hours of operation. The restroom shall be located on the same site as the mobile vending pod and be within 300 feet of every mobile vending space.

N. Conditions of Approval. A mobile vending location shall comply with applicable conditions of approval for previous land use decisions for the subject property.

O. Violation. The property owner and any representative of the property owner shall be jointly and severally responsible for any violation of this Subchapter or other applicable Subchapters of the Independence Development Code. Any such violation may result in the immediate revocation of a mobile vending location approval granted under this Subchapter and/or any mobile vending device license issued under Independence Municipal Code Chapter 8, Article

XI and may result in the denial of any future mobile vending license for the site upon which the violation occurred.

84.050 Application

A. No person may establish a new location for mobile vending without first submitting an application and obtaining a permit under this Subchapter 84 from the City Manager or his or her designee.

B. Each application shall be accompanied by a nonrefundable fee, as established by Council resolution.

C. Applications shall be made in a form approved by the City Manager.

D. The application shall include, but not be limited to, the following information:

1. The name and address of the property owner. For the purposes of this code, the property owner will be considered the applicant for the project.

2. A site plan that shows the following information:

a. The anticipated types of mobile vending devices that will occupy the location.
b. The proposed location of the mobile vending devices, and the distance to the property lines and nearby sidewalks, driveways or structures.
b. The location of the hard-surface area where mobile vending devices will be located.
c. The location of any power service to a mobile vending space.
d. The location of proposed garbage and recycling receptacles, restrooms, chairs, tables and other site features.
e. The location of the public water, sanitary sewer and storm drainage lines (if applicable). If the applicant proposes a mobile vending pad, served with self-contained water and/or graywater tanks, the applicant should specify the plan anticipated for the disposal of wastewater and gray water.
f. The location of any proposed lighting.
g. A traffic plan, showing the in/out flow of cars; and the parking for customers and employees.

E. Mobile vending devices may operate on city-owned property subject to a site-specific lease or license, with the city approving the use and location, which is conspicuously displayed on-site.

84.060 Form and conditions of permit

A. The City Manager shall grant a Site Design Review permit for a mobile vending location if the City Manager or designee finds that the mobile vending location

meets the standards set in Sections 84.040 (Standards) and 84.050 (Application), can comply with all applicable City Code provisions, and will not detract from the health, safety, and general welfare of the city.

B. Site Design Review approvals issued under this subchapter shall be in a form prescribed by the City Manager and contain the following conditions:

1. The approved mobile vending location shall be valid only when used in conformance with the Site Design Review approval.

2. The Site Design Review approval shall be subject to the conditions and restrictions of this subchapter.

C. Under an approved permit, no mobile vending location shall:

1. Operate in a manner which creates a danger to persons or property.

2. Deliberately hinder or impede pedestrian or vehicular traffic.

3. Obstruct the clear vision of the driver of any vehicle.

4. Operate in a manner which will hinder emergency or utility services.

5. Operate in violation of any of the city's land use regulations or municipal codes.

SUBCHAPTER 90: SUBDIVISION REGULATIONS

Subchapter 90.10 GENERAL PROVISIONS

90.10.005 Title

This chapter shall be known as the "Independence Subdivision Regulations" and may be so pleaded.

90.10.010 Purpose

The purpose of this chapter is to establish standards and procedures for land divisions in the city. These regulations are necessary to provide uniform procedures and standards for the subdivision and partition of land, to provide the proper construction and arrangement of space in order to avoid undue congestion of population, to provide adequate light and air including protection and assurance of access to incident solar radiation for potential future use, to assure adequate sanitation and water supply, to provide for orderly development and conservation of land, to protect the general health, safety and welfare and to implement the Comprehensive Land Use Plan of the City of Independence.

90.10.015 Scope

The criteria in this chapter apply to all land divisions in the city.

90.10.020 Sale Prohibited

No person shall sell any lot or parcel created by a land division until final approval of the land division has been granted by the city. Final approval of a land division occurs when the partition or subdivision plat is recorded with the county clerk.

90.10.025 Building Permits and Improvements Prohibited

No building permit shall be issued for any lot or parcel created after the effective date of this chapter if such lot or parcel is not created in conformity with the criteria set out in this chapter. No excavation of land or construction of improvements shall be commenced except in conformity with this chapter.

90.10.030 Conditions

The city may attach reasonable conditions to any approval it deems necessary to implement the provisions of this chapter and the Comprehensive Land Use Plan of the city; to ensure the general health, safety and welfare of residents of the city and to promote the economical and aesthetic development of land in the city.

90.10.035 Violations and Penalties

Violation of any provision of this chapter is punishable upon conviction by a fine not to exceed $500.00. Each day of a continuing violation constitutes a separate violation.

Subchapter 90.20 DEFINITIONS

ACCESS

"Access" means the way or means by which pedestrians and vehicles enter and leave property.

ALLEY

"Alley" means an unnamed street which affords only a secondary means of access to property.

ALTER

"Alter" means any change, addition, or modification in construction of a structure or building.

BLOCK

"Block" means a parcel of land bounded by three or more streets in a subdivision.

BLOCK LENGTH

"Block Length" means the distance measured along all that part of one side of a street which is between two intersecting or intercepting streets, or between an intersecting or intercepting street and a railroad right-of-way, water course, body of water, or undivided acreage.

BUILDING LINES

"Building Lines" means a line that is parallel with and adjacent to the most forward portion of a building.

BUILDING OFFICIAL

"Building Official" means the superintendent of the building department or his designate.

CITY

"City" means the City of Independence, Oregon.

COMMISSION

"Commission" means the City Planning Commission.

COMPREHENSIVE LAND USE PLAN

"Comprehensive Land Use Plan" means the master plan adopted by the **C**ity **C**ouncil and approved by the Land Conservation and Development Commission for the guidance of physical, economic and social growth and improvement of the City.

CONDOMINIUM

"Condominium" means the land, whether leasehold or in fee simple and whether contiguous or noncontiguous, all buildings, improvements, and structures thereon, and all easements, rights, and appurtenances belonging thereto.

CONSTRUCTION

As used in this chapter, of the masculine includes feminine and neuter and the singular includes the plural. The particular controls the general. The word "shall" is mandatory, the word "may" is permissive.

COUNCIL

"Council" means the City Council of the City of Independence.

CURB CUT

“Curb cut” means a driveway opening where a curb is provided along a street.

DEVELOPMENT PLAN

"Development Plan" means any plan adopted by the Planning Commission or Council for the guidance or growth and improvement of the city, including modifications or refinements which may be made from time to time.

DWELLING UNIT

"Dwelling Unit" means a single unit providing complete independent facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT

"Easement" means a grant of the right of use across or through a block, lot, parcel or tract of land for specific purposes.

INCIDENT SOLAR RADIATION

"Incident Solar Radiation" means solar energy falling upon a given surface area.

LAND DIVISION

"Land Division" means the creation of a lot or parcel of land through the subdivision or partition process.

LOT

"Lot" means a unit of land that is created by a subdivision of land.

LOT, CORNER

"Corner Lot" means a lot abutting on two or more streets, other than an alley, at their intersection.

LOT, CURVILINEAR

"Curvilinear Lot" means a lot having a curved frontage.

LOT LINE ADJUSTMENT

“Lot Line Adjustment” means an adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with all requirements of this Ordinance.

MAJOR PARTITION

"Major Partition" means a partition, as defined by this ordinance, that includes the creation of a road or street.

MAP

"Map" means a final diagram, drawing or other writing concerning a major partition.

MINOR PARTITION

"Minor Partition" means a partition, as defined by this ordinance, that does not include the creation of a road or street.

NEGOTIATE

"Negotiate" means any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.

OWNER

Where used in relationship to real property, "Owner" means the legal owner of record or, where there is a recorded land sales contract in force, the purchaser thereunder.

PARCEL

"Parcel" means a unit of land that is created by a partitioning of land.

PARTITION

"Partition" means either an act of partitioning land or an area or tract of land partitioned as defined in this section.

PARTITION LAND

“Partition Land” means to divide land into two or three parcels of land within a calendar year, but does not include:

A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;

B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;

C. The division of land resulting from the recording of a subdivision or condominium plat;

D. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan. However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when

the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

PARTITIONED LAND

Amended 1986.

PARTITION PLAT

“Partition Plat” includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

PERSON

"Person" means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof.

PLANNING COMMISSION

"Planning Commission" means the Planning Commission of the City of Independence, Oregon.

PLANNED UNIT DEVELOPMENT

"Planned Unit Development" means a complex of residential and/or commercial structures designed and developed as a single development unit, built by a single owner or group of owners and maintained by an association. Conversion of existing multiple dwelling unit structures to condominiums shall constitute a Planned Unit Development. The phrase Planned Unit Development may be abbreviated "PUD".

PLAT

See “Partition Plat” and “Subdivision Plat”.

PROPERTY LINE

“Property Line” means the division line between two units of land.

PROPERTY LINE ADJUSTMENT

“Property Line Adjustment” means the relocation of a common property line between two abutting properties.

RESERVE BLOCK

"Reserve Block" means a strip of land usually one foot in width, reserved across the end of a street or alley terminating at the boundary of a subdivision, or a strip of land between a dedicated street of less than full width and adjacent acreage, in either case reserved or held for future street extension or widening.

RIGHT-OF-WAY

"Right-of-Way" means the area between boundary lines of a street or other easement assigned for public purposes.

ROAD OR STREET

"Road or Street" means a public or private way that is created to provide ingress or egress to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes. The term street shall include such designations as highway, thoroughfare, park-way, throughway, road, avenue, boulevard, lane, court, place or other such terms.

A. Arterial. A major facility for moving large volumes of inter-area traffic primarily carrying through-traffic.

B. Collector Street. A facility that allows intra-area traffic to connect to the arterial system. It supplies abutting property with the same degree of land service as a local street but is given priority over local streets in any traffic control installation.

C. Local Street. It serves primarily to provide direct access to abutting land and offers the lowest level of traffic mobility. Through traffic movement is deliberately discouraged.

D. Cul-de-sac. A short, dead-end street with vehicular turn-around at the dead-end.

E. Dead-End Street. An arterial, collector, local or cul-de-sac street which will be completed or extended and with no turnaround at the present dead-end.

F. Marginal Access Street (frontage road). A minor street parallel and adjacent to an arterial or collector street providing access to abutting properties, but protected from through traffic.

SALE or SELL

"Sale or Sell" includes every disposition or transfer of land.

SERVICE UTILITIES

Whenever the term "service utilities" or "service utility" is used it shall mean and include public street lighting and water mains and facilities for fire protection and the following utilities for residential service: water, sanitary sewer, electricity, gas, telephone and television cable service.

SUBDIVIDE LAND

"Subdivide Land" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

SUBDIVIDER

"Subdivider" means any person who proposes a land division.

SUBDIVISION

"Subdivision" means either an act of subdividing land or an area or a tract of land subdivided as defined in this chapter.

SUBDIVISION PLAT

“Subdivision Plat” includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision prepared as specified by Oregon Revised Statutes Chapter 92.

TENTATIVE PLAN

"Tentative Plan" means a preliminary map of a partitioning or preliminary plat of a subdivision.

UTILITIES

"Utilities" means water, gas, sewer, electrical, telephone and wire communication service, and all persons and companies supplying the same.

WETLANDS

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Subchapter 90.40 MINOR PARTITIONING REGULATIONS

90.40.010 Minor Partition Procedure for Approval.

Land divisions other than subdivisions or major partitions shall be known as minor partitions and shall be approved under the procedures contained in this subchapter. Minor land partition decisions shall be made by the City Manager or designee as a Type I decision under Zoning Code Section 11.015.

90.40.012 Applications for Minor Partitions.

Applications for all minor partitions, as defined in this chapter, shall be filed with the City. An application shall be submitted in writing in a format provided by the City.

90.40.015 Filing an Application for a Minor Partition Action.

The City Manager or designee shall examine each application to ascertain if the appropriate forms have been completed, the appropriate fees have been paid and if all required documents and information have been submitted. Three copies of a sketch map 18 by 24 inches in size containing the date, north point, scale and sufficient description to define the location and boundaries of the parcel to be partitioned shall be submitted to the City Manager or designee along with the following information:

A. The name and address of the owner of record and of the person who prepared the map.

B. The names and addresses as compiled from the most recent county property tax assessment roll of all property owners within 100 feet of the entire contiguous site for which the application is made. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

C. The approximate acreage of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the minor partition.

D. For land adjacent to and within the parcel to be partitioned, the locations, names and existing widths of all streets and easements of way; location, width and purpose of all other existing easements; and location and size of sewer and water lines, drainage ways and power poles.

E. Outline, location and setback dimensions to property lines of existing buildings to remain in place.

F. Outline, location, approximate date of original construction and dimensions of existing building and other structures to be removed.

G. Lot layout, showing size and relationship to existing or proposed streets and utility easements.

90.40.020 Notice and Procedural Requirements.

Minor land partition decisions shall be made by the City Manager or designee as Type I decisions under Zoning Code Section 11.015.

90.40.025 Standards for Minor Partition Requests.

The City Manager or designee may approve the minor partition application upon a finding that:

A. The proposed division complies with the requirements for its submittal, all requirements of the Comprehensive Plan, the intent and purposes of this Chapter and all other applicable laws and regulations;

B. The proposed division is not contrary to previous conditions imposed upon the use or development of the subject parcel by the Planning Commission; and

C. The proposed division is consistent with the extension of existing or planned City improvements such as streets and has dedicated necessary rights-of-way and easements for the improvements.

D. If the parcel of land to be partitioned exceeds five acres and within a year is being partitioned into more than two parcels, any one of which is less than one acre, full compliance with all requirements for subdivisions is required if the entire parcel being partitioned is in the process of being divided into small parcels.

90.40.030 Appeal.

Appeals of minor land partition decisions shall be made as provided under Zoning Code Section 11.040.

90.40.035 Final Plat Submission Requirements

A. An application for minor plat final approval shall be made by the person proposing the land division, or authorized agent or representative, on a form prescribed by the Planning Department and submitted after the effective date of preliminary plat approval. Said applications shall be accompanied by a final plat and additional information as prescribed in this section.

B. The applicant shall submit the final plat within the timeframe specified in IDC Subchapter 11.

90.40.040 Technical Review.

Upon receipt of the final plat and accompanying data, the City Manager or designee shall review the final plat and documents to determine that the plat conforms with the approved tentative plat, and that there has been compliance with provisions of the law of this chapter. The City Manager or designee shall either approve, deny, or when further information is required, postpone a decision on the application. If the City determines that there has not been full conformity, the partitioner shall be advised of the changes or additions that must be made and will be afforded a reasonable opportunity to make such changes or additions.

Approval shall be granted, provided that:

A. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision or the major partition as approved, and all conditions of approval have been satisfied.

B. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect that the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U. S. Geological Survey or giving two or more permanent objects for identifying its location.

90.40.050 Appeal.

Appeals of minor land partition decisions shall be made as provided under Zoning Code Section 11.040.

90.40.055 Resubmission Of Requests.

Any request for a minor partition which has been denied by the City Manager or designee shall not be resubmitted for a period of one year following the date of the denial unless consent for resubmission is approved by the Planning Commission or the City Council.

90.40.060 Rescission Of A Minor Partition Approval.

Prior to recording the final plat, any minor partition action granted under this chapter may be rescinded by the City Manager or designee if it is found that the application for such action contains false statements, or if subsequent division, development, or use of land occurs in a manner different from that which was approved.

Subchapter 90.60 SUBDIVISIONS AND MAJOR PARTITIONING REGULATIONS

90.60.005 Scope of Subchapter. This subchapter shall apply to all subdivisions and major partitions in the city and, to the extent applicable, all minor partitions in the city. No

parcel of land or contiguous parcels of land under single ownership shall be partitioned as a major partition or subdivided for the transfer of ownership or development so as to conflict with the standards as set forth in this subchapter.

90.60.010 Design Standards. The standards contained in Subchapter 90.50 through 90.90 shall apply to all land divisions regulated by this chapter.

90.60.015 Preliminary Conference. A conference shall be held prior to the submission of any tentative plan or drawing to enable the City to put the applicant on notice of the provisions of this chapter. Any applicant for a land division shall submit a plan of the preliminary scheme for the layout of property to be divided to the City. No statements or representations made by the City shall constitute an agreement or approval with respect to any land division or requirements of this chapter.

90.60.020 Tentative Plat. The subdivider shall prepare a tentative plat together with improvement plans and other supplementary materials and, after payment of a filing fee to the city in accordance with 90.60.022 of this chapter, shall submit 9 copies of the tentative plan and supplementary data on forms prescribed by the Planning Commission at least 45 calendar days prior to the next available Planning Commission meeting. The tentative plat shall show all pertinent information to scale in order that the Planning Commission may properly review the proposed development. Recording size copies of the tentative plat, 18 by 24 inches or 24 by 36 inches, shall be submitted to the city.

90.60.022 Fees. Fees for filing an application for a subdivision or major partition shall be set by resolution of the City Council.

90.60.025 Tentative Plat, Scale. The tentative plat shall show all pertinent information, normally at a scale of one inch equals 50 feet. For subdivision, the scale may be increased or decreased to fit standard size sheets of 18 inches by 24 inches. Major partition tentative plats shall conform to dimensions and size as specified by the County Recording office for major partition maps offered for record, and the scale may be adjusted accordingly. However, in all cases the scale shall be standard, being 10, 50, 100 or multiples of 100 feet to the inch. No partition survey or description may be made by any surveyor or person until tentative approval has been given by the Planning Commission.

90.60.030 Tentative Plat, Information. The following information shall be shown on the tentative plat:

A. Proposed name of the subdivision. Except for the words "town", "city", "place", "court", "addition", or similar words, the name shall be clearly different and clearly pronounced differently from the name of any other subdivision in the County, unless the subject subdivision is contiguous to and platted by the same party that platted the preceding subdivision bearing that name. All subdivisions must continue the block numbers of the subdivision of the same name last filed.

The City shall reserve the right to assign or have assigned a sequential number placed upon the tentative map.

B. The proposed language to be used in the dedication.

C. Date, north point with orientation to the upper edge of the plan, and scale of drawing.

D. Appropriate identification clearly stating the plan is a tentative plan.

E. Location of the subdivision sufficient to define the location and boundaries of the proposed tract and its relation to surrounding land uses and existing and proposed transportation facilities.

F. Names and addresses of the owner, subdivider, surveyor, and engineer.

G. The location, width, names, approximate grades and radii of curves of streets. The relationship of streets, bikeways and pedestrian facilities to any existing or projected streets, bikeways and pedestrian facilities as shown on the Independence Transportation System Plan or as may be suggested by the Planning Commission in order to assure adequate traffic circulation.

H. The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips proposed to satisfy requirements which may be required as provided for in other sections of this chapter.

I. The location and approximate dimension of lots and the proposed lot and block numbers.

J. The approximate radii of all curves.

K. Sites, if any, allocated for purposes other than single family dwellings.

L. A vicinity map, showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision, and showing how proposed streets, bikeways, pedestrian facilities, and utilities may be extended to connect to existing and proposed streets and utilities.

M. Proposed deed restrictions, if any, in outline form.

N. Approximate center line profiles with extensions for a distance of 200 feet beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street, bikeway, and sidewalk construction.

O. A plan for domestic water supply, including the source, and plans for water lines.

P. Proposals for sewage disposal, storm water drainage, erosion control, storm water treatment, and flood control, including profiles of proposed drainage ways.

Q. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil. All lots created shall be level and finish graded to allow positive drainage and mowing of the lots until building construction.

R. Proposals for other improvements such as electric utilities, street lighting, landscape plans. Required landscape plans must conform to Subchapter 54, Buffering and Screening Requirements.

S. A complete service utility plan for the subdivision to be made which plan shall require easements adequate to meet the underground service utility requirements of the subdivision, but not to exceed the preliminary requirements. The utilities to be located in any proposed easements shall be identified on the plan. The final plat of the subdivision as provided shall contain a dedication to the public of easements in accordance with the service utility plan as adopted by the Commission. The City may require the extension of utilities to any boundary line of the proposed development to allow for future development beyond the subject property.

T. The location within the subdivision and the adjoining streets and property of existing sewers, water mains, culverts, drain pipes and electric lines.

U. Any other information relevant to the proposal consistent with the purposes and scope of this chapter.

V. Location of park property and other public areas.

W. A cross-section of each street, bikeway, and pedestrian facility proposed, including roadway pavement, curb, sidewalk, designated bikeway, gutters and planter strips.

X. The plan required above, reduced to 8½ x 11 inches.

Y. If located within the Southwest Independence Concept Plan area, the location and widths of streets, pedestrian and bicycle facilities, and the trail/stormwater/riparian corridor along Ash Creek consistent with the Southwest Independence Concept Plan.

90.60.035 Traffic Impact Analysis Requirement

A. Intent and Purpose. A transportation impact analysis (TIA) provides an objective assessment of the anticipated modal transportation impacts

associated with a specific land use action. A TIA is useful for answering important transportation-related questions such as:

1. Can the existing transportation system accommodate the proposed development from a capacity and safety standpoint?

2. What transportation system improvements are necessary to accommodate the proposed development?

3. How will access to the proposed development affect the traffic operations on the existing transportation system?

4. What transportation impacts will the proposed development have on the adjacent land uses, including commercial, institutional, and residential uses?

5. Will the proposed development meet current standards for roadway design?

6. Does the proposed development comply with the TSP?

B. County and ODOT Coordination. Throughout development of the TIA (and beginning as early as possible), cooperation/coordination between the City of Independence, Polk County, and ODOT staff (as applicable), the applicant, and the applicant's traffic engineer is encouraged to provide an efficient and effective process.

City of Independence staff may, at their discretion, and depending on the specific situation, require additional study components in a TIA beyond what is outlined in this section or waive requirements deemed inappropriate.

These requirements are for subdivision and development applications that are expected to affect city and/or county facilities. For development applications that require an ODOT access permit, land use zoning changes, or comprehensive plan modifications, applicable ODOT requirements should be referenced and ODOT should be consulted during the project scoping process.

The City of Independence and Polk County assume no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of a transportation impact analysis.

C. When a Transportation Impact Analysis is Required. A TIA shall be required when:

1. The development generates 50 or more peak-hour trips or 500 or more daily trips;

2. An access spacing exception is required for the site access driveway(s) and the development generates 25 or more peak-hour trips or 250 or more daily trips;

3. The development is expected to impact intersections that are currently operating at the upper limits of the acceptable range of level of service during the peak operating hour; or

4. The development is expected to significantly impact adjacent roadways and intersections that have previously been identified as high crash locations or areas that contain a high concentration of pedestrians or bicyclists such as school zones.

5. A major construction project is anticipated to significantly impede normal traffic flow or roadway capacity, as determined by the Public Works Director.

6. A construction project is anticipated to cause significant deterioration of the roadway infrastructure, as determined by the Public Works Director.

D. When a Transportation Assessment Letter is Required**.** If a TIA is not required per Subsection (C) above, the applicant's traffic engineer shall submit a transportation assessment letter to the city and/or county indicating the proposed land use action is exempt. This letter shall outline the trip-generating characteristics of the proposed land use and verify that the site-access driveways or roadways meet the City of Independence or Polk County sight-distance and access spacing requirements and roadway design standards.

E. Scoping Memorandum. For either a TIA or Transportation Assessment Letter, a scoping memorandum shall be prepared and submitted to the city, county (if applicable), and/or ODOT. This memorandum must detail the proposed analysis approach, relevant assumptions, project background information, assumed trip generation and trip distribution for the site, and proposed study facilities, at a minimum.

F. Contents of a Transportation Impact Analysis. As a guide in the preparation of a transportation impact analysis, the City of Independence recommends the following format be used to document the analysis.

1. Table of Contents. Listing of all sections, figures, and tables included in the report.

2. Executive Summary. Summary of the findings and recommendations contained within the report.

3. Introduction. Proposed land use action, including site location, building square footage, and project scope. Map showing the proposed site, building footprint, access driveways, and parking facilities. Map of the study area, which shows site location and surrounding roadway facilities.

4. Existing Conditions. Existing site conditions and adjacent land uses. Roadway characteristics (all transportation facilities and modal opportunities located within the study area, including roadway functional classifications, street cross section descriptions, posted speeds, bicycle and pedestrian facilities, on-street parking, and transit facilities). Existing lane configurations and traffic control devices at the study area intersections. Existing traffic volumes and operational analysis of the study area roadways and intersections. Roadway and intersection crash history analysis.

5. Background Conditions (without the proposed land use action). Approved developments and funded transportation improvements in the study area. Traffic growth assumptions. Addition of traffic from other planned developments. Background traffic volumes and operational analysis.

6. Full Buildout Traffic Conditions (with the proposed land use action). Description of the proposed development plans. Trip-generation characteristics of the proposed development (including trip reduction documentation). Trip distribution assumptions. Full buildout traffic volumes and intersection operational analysis. Intersection and site-access driveway queuing analysis. Expected safety impacts. Recommended roadway and intersection mitigations (if necessary).

7. Site Circulation Review. Evaluate internal site access and circulation. Review pedestrian paths between parking lots and buildings. Ensure adequate throat depth is available at the driveways and that vehicles entering the site do not block the public facilities. Review truck paths for the design vehicle.

8. Turn Lane Warrant Evaluation. Evaluate the need to provide turn lanes at the site driveways.

9. Conclusions and Recommendations. Bullet summary of key conclusions and recommendations from the transportation impact analysis.

10. Appendix. Traffic counts summary sheets, crash analysis summary sheets, and existing/background/full buildout traffic operational analysis worksheets. Other analysis summary sheets such as queuing and signal warrant analyses.

11. Figures. The following list of figures should be included in the Transportation Impact Analysis: Site Vicinity Map; Existing Lane Configurations and Traffic Control Devices; Existing Traffic Volumes and Levels of Service (all peak hours evaluated); Future Year Background Traffic Volumes and Levels of Service (all peak hours evaluated); Proposed Site Plan; Future Year Assumed Lane Configurations and Traffic Control Devices; Estimated Trip Distribution Pattern; Site-Generated Traffic Volumes (all peak hours evaluated); Full Buildout Traffic Volumes and Levels of Service (all peak hours evaluated).

12. Preparer Qualifications. An Oregon-registered professional engineer (Civil or Traffic) shall prepare the transportation impact analysis. In addition, the preparer should have extensive experience in the methods and concepts associated with transportation impact studies.

G. Study Area. The study area shall include, at a minimum, all site-access points and intersections (signalized and unsignalized) adjacent to the proposed site. If the proposed site fronts an arterial or collector street; the study area shall include all intersections along the site frontage and within the access spacing distances extending out from the boundary of the site frontage. Beyond the minimum study area, the transportation impact analysis shall evaluate all intersections that receive site-generated trips comprising at least 10% or more of the total intersection approach volume. In addition to these requirements, the City Public Works Director (or his/her designee) shall determine any additional intersections or roadway links that might be adversely affected as a result of the proposed development. The applicant and the Public Works Director (or his/her designee) will agree on these intersections prior to the start of the transportation impact analysis, preferably with input from ODOT if any state-owned facilities may be affected. The required study area may need to be expanded to comply with ODOT requirements.

H. Study Years to be Analyzed in the Transportation Impact Analysis. A level-of-service analysis shall be performed for all study roadways and intersections for the following horizon years:

1. Existing Year. Evaluate all existing study roadways and intersections under existing conditions.

2. Background Year. Evaluate the study roadways and intersections in the year the proposed land use is expected to be fully built out, without

traffic from the proposed land use. This analysis should include traffic from all approved developments that impact the study intersections, or planned developments that are expected to be fully built out in the horizon year.

3. Full Buildout Year. Evaluate the expected roadway, intersection, and land use conditions resulting from the background growth and the proposed land use action assuming full build-out and occupancy. For phased developments, an analysis shall be performed during each year a phase is expected to be completed.

4. Twenty-Year Analysis. For all land use actions requesting a Comprehensive Plan Amendment and/or a Zone Change, a long-term level-of-service analysis shall be performed for all study intersections assuming buildout of the proposed site with and without the comprehensive plan designation and/or zoning designation in place. The analysis should be performed using the future year traffic volumes identified in the Transportation System Plan (TSP). If the applicant's traffic engineer proposes to use different future year traffic volumes, justification for not using the TSP volumes must be provided along with documentation of the forecasting methodology. The required study area may need to be expanded to comply with ODOT requirements.

I. Study Time Periods to be Analyzed in the Transportation Impact Analysis. Within each horizon year, a level-of-service analysis shall be performed for the time period(s) that experience the highest degree of network travel. These periods typically occur during the mid-week (Tuesday through Thursday) morning (7:00 a.m. to 9:00 a.m.), mid-week evening (4:00 p.m. to 6:00 p.m.), and Saturday afternoon (12:00 p.m. to 3:00 p.m.) periods. The transportation impact analysis should always address the weekday a.m. and p.m. peak hours when the proposed lane use action is expected to generate 25 trips or more during the peak time periods. If the applicant can demonstrate that the peak-hour trip generation of the proposed land use action is negligible during one of the two peak study periods and the peak trip generation of the land use action corresponds to the roadway system peak, then only the worst-case study period need be analyzed.

Depending on the proposed land use action and the expected trip-generating characteristics of that development, consideration of non-peak travel periods may be appropriate. Examples of land uses that have non-typical trip generating characteristics include schools, movie theaters, and churches. The Public Works Director (or his/her designee) and applicant should discuss the potential for additional study periods prior to the start of the transportation impact analysis.

J. Traffic Count Requirements. Once the study periods have been determined, turning movement counts should be collected at all study area intersections to determine the base traffic conditions. These turning movement counts should typically be conducted during the weekday (Tuesday through Thursday) between 7:00 and 9:00 a.m. and between 4:00 and 6:00 p.m., depending on the proposed land use. Historical turning movement counts may be used if the data are less than two years old, but must be factored to meet the existing traffic conditions.

K. Trip Generation for the Proposed Development. To determine the impacts of a proposed development on the surrounding transportation network, the trip-generating characteristics of that development must be estimated. Trip-generating characteristics should be obtained from one of the following acceptable sources:

1. Institute of Transportation Engineers (ITE) *Trip Generation Manual* (latest edition).

2. Specific trip generation studies that have been conducted for the particular land use action for the purposes of estimating peak-hour trip-generating characteristics. The Public Works Director (or his/her designee) should approve the use of these studies prior to their inclusion in the transportation impact analysis.

3. In addition to new site-generated trips, several land uses typically generate additional trips that are not added to the adjacent traffic network. These trips include pass-by trips and internal trips and are considered to be separate from the total number of new trips generated by the proposed development. The procedures listed in the most recent version of the *Trip Generation Handbook* (ITE) should be used to account for pass-by, diverted link, and internal trips.

L. Trip Distribution. Estimated site-generated traffic from the proposed development should be distributed and assigned on the existing or proposed arterial/collector street network. Trip distribution methods should be based on a reasonable assumption of local travel patterns and the locations of off-site origin/destination points within the site vicinity. Acceptable trip distribution methods should be based on one of the following procedures:

1. An analysis of local traffic patterns and intersection turning movement counts gathered within the previous 12 months.

2. A detailed market study specific to the proposed development and surrounding land uses.

M. Intersection Operation Standards. The City of Independence will evaluate intersection operational performance based on level of service.

1. Intersection Levels of Service. The City of Independence will require all intersections within the study area to maintain an acceptable level of service (LOS) upon full buildout of the proposed land use action. LOS calculations for signalized intersections are based on the average control delay per vehicle, while LOS calculations for unsignalized intersections are based on the average control delay for the worst or critical movement. All LOS calculations should be made using the methods identified in the most recent version of the Highway Capacity Manual, published by the Transportation Research Board. The minimum acceptable level of service for signalized intersections is LOS "D" while the minimum acceptable level of service for unsignalized intersections is LOS "E". Any intersections not operating at these standards will be considered to be unacceptable.

N. Review Policy and Procedure. The following criteria should be used in reviewing a transportation impact analysis as part of a subdivision or site plan review.

1. The road system is designed to adequately meet the projected traffic demand at full build-out.

2. Proposed driveways do not adversely affect the functional characteristics of the surrounding roadways.

3. Adequate intersection and stopping sight distance is available at all driveways.

4. Proposed driveways meet the City and County's access spacing standard or sufficient justification is provided to allow a deviation from the spacing standard.

5. Opportunities for providing joint or crossover access have been pursued.

6. The site does not rely upon the surrounding roadway network for internal circulation.

7. The road system provides adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.

8. A pedestrian path system is provided that links buildings with parking areas, entrances to the development, open space, recreational

facilities, and other community facilities per the Transportation Planning Rule.

O. Conditions of Approval**.** As part of every land use action, the City of Independence and/or Polk County, and ODOT (if access to a state roadway is proposed) will be required to identify conditions of approval needed to meet operations and safety standards and provide the necessary right-of-way and improvements to develop the future planned transportation system. Conditions of Approval that should be evaluated as part of subdivision and site plan reviews include:

1. Crossover easement agreements for all adjoining parcels to facilitate future access between parcels.

2. Conditional access permits for new developments which have proposed access points that do not meet the designated access spacing policy and/or have the ability to align with opposing access driveways.

3. Right-of-way dedications for future planned roadway improvements.

4. Half-street improvements along site frontages that do not have full-buildout improvements in place at the time of development.

90.60.040 Partial Subdivision Plat/Master Plan. If the subdivision plat pertains to only part of the tract owned or controlled by the subdivider, the subdivider shall provide a sketch of a tentative layout for streets, bikeways, pedestrian facilities, and lots in the unsubdivided portion.

90.60.045 Tentative Plat Changes. Any changes in a tentative plat initiated by the applicant shall constitute a new application and shall be accompanied by the fees required in this subchapter.

90.60.050 Existing Conditions. The following existing conditions shall be shown on the tentative plat:

A. The location, widths and names of both opened and unopened streets, bikeways and pedestrian facilities within or adjacent to the tract, together with easements and other important features, such as section lines, corners, city boundary lines and monuments.

B. Location and size of sewer and water lines (including laterals, drainage ways and the location of power poles).

C. Contour lines related to some established bench mark or other datum approved by the city and having minimum intervals as follows:

1. For slopes of less than 5 percent: show the direction of slope by means of arrows or other suitable symbol, together with not less than four spot elevations per acre, evenly distributed.

2. For slopes of 5 percent to 15 percent: five feet.

3. For slopes of 15 percent to 20 percent: ten feet.

4. For slopes of over 20 percent: 20 feet.

5. For slopes in designated flood plain areas and drainage ways: 5 feet except that the flood plain elevation and contour lines shall also be noted.

D. The location of at least one temporary bench mark within the plan boundaries.

E. The location and direction of water courses and the location of areas subject to flooding.

F. Natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees.

G. Existing uses of the property, including location of all existing structures to remain on the property after platting or mapping.

H. Locations and widths of streets and roads, bikeways and pedestrian facilities held for private use, and all reservations or restrictions relating to such private roads and streets.

I. Existing uses of all abutting parcels, including the location of existing structures, roads, streets bikeways, pedestrian facilities, and easements contiguous to the parcel to be subdivided.

90.60.055 Governmental Notification And Comment. Within ten working days after the major partition or subdivision application is submitted, according to the provisions of this chapter, the City Manager or designee shall distribute copies thereof to the appropriate agencies and departments for review, comments and recommendations.

90.60.057 Major Partition And Subdivision Procedural Requirements. Preliminary plat review for a major partition or subdivision shall be made by the Planning Commission as a Type II procedure under Zoning Code Section 11.015 and as specified by this subchapter. Final plat review shall be conducted by the City Manager or designee as a Type I procedure under Zoning Code Section 11.015 and as specified by this subchapter.

90.60.058 Preliminary Plat Approval Criteria. The Planning Commission may approve, approve with conditions are deny a preliminary plat based on the following approval criteria:

A. The proposed preliminary plat complies with the requirements for its submittal, all requirements of the Comprehensive Plan, all requirements of this Chapter, all requirements of the Zoning Code, and all other applicable laws and regulations.

B. All proposed streets, alleys, sidewalks, pedestrian facilities, bicycle facilities, pathways. utilities, and surface water management facilities conform or transition to the plats of subdivisions and major partitions already approved for adjoining property as to width, general direction, and all other respects and such facilities comply with the standards of the Monmouth Comprehensive Plan, Transportation System Plan, Zoning Code, and this chapter.

C. All proposed public improvements and dedications are identified on the preliminary plat.

D. All proposed private common areas and improvements (e.g.) home owner association property) are identified on the preliminary plat.

E. All proposed lots, blocks, and parcels meet the standards of the applicable zoning district and this chapter.

F. Land proposed for dedication as park land has been provided and approved by the City Council or as provided in Subsection 90.90.060. In lieu of this dedication, the City Council may require that a fee be paid as specified in Subsection 90.90.060.

G. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or major partition plat.

H. In accordance with the Uniform Fire Code, a 20-foot wide fire apparatus access drive shall be provided to serve all portions of a building located more than 150 feet from a public right-of-way or approved access drive.

I. The City may attach such conditions as are necessary to carry out the provisions of this Code and all other applicable ordinances and regulations and may require reserve strips be granted to the City for the purpose of controlling access to adjoining properties.

90.60.065 Tentative Plat - Effective Date. Unless appealed, Planning Commission decisions shall become effective on the 13th day after the date the decision is rendered. The applicant may then proceed with final surveying and preparation for final approval.

90.60.070 Final Plat.

A. Any application for major partition or subdivision plat final approval shall be made by the person proposing the land division, or authorized agent or representative, on a form prescribed by the City Manager or designee and submitted after the effective date of tentative approval. Said applications shall be accompanied by plats and additional information as prescribed in this section.

B. The applicant shall submit the final plat within within the timeframe specified in IDC Subchapter 11.

C. One original and two copies, 18 inches by 24 inches in size. Original plats shall be in substantial conformity with the approved tentative plan and shall conform to the Polk County Surveyor's specifications and requirements and all requirements of Oregon Revised Statutes Chapter 92. Sheet dimensions and size shall be as specified by the County recording officer for major partition plats offered for record.

90.60.075 Information Required on Final Applications. The application provided for in 90.60.070 of the proposed subdivision plat or the major partition must contain the following information with respect to the subject area:

A. The lengths of all chords, radii points of curvature, and tangent bearings shown.

B. The lot lines of all lots within the subdivision, or all parcel lines within the major partition, with dimensions in feet and hundredths of feet and with all bearings shown. Area in square feet for each lot shall also be tabulated or indicated on each lot.

C. Numbers designating each block and lot in subdivisions, lots in each block to be numbered consecutively.

D. Where a plat is an addition to a plat previously recorded, numbers of blocks and lots in consecutive continuation from such previous plat.

E. The description and location of all permanent reference monuments, including a tie, section corner, 1/4 corner, donation land corner, other such reference point.

F. An affidavit of an Oregon licensed land surveyor, and who surveyed the subdivision or major partition, conforming to the requirements of the Oregon Revised Statutes.

G. The location of all existing easements for public utilities and such easements being created, and also all reserve strips required as provided for by Section 90.90.010 of this chapter.

H. A designation of all area being dedicated by the applicant, including proposed uses, and an effective written dedication thereof.

I. Designation of all donations to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water systems, the donation of which was made a condition of approval of the tentative plan for the subdivision or major partition.

J. A copy of all protective deed restrictions being proposed.

K. A title report issued by a title insurance company licensed by the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public.

L. Certificates. The following, which may be combined where appropriate, must be included:

1. A certificate that the subdivider has entered into agreement with the city relating to completion of improvements, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statue, or federal law. The subdivider is responsible for the cost of an independent third party inspector for all public improvements including, but not limited to sewer, water, storm drainage and road construction, said inspection fees will be paid to the city before construction begins. Inspection fees will be set by the City Council. The subdivider shall be responsible for payment of any inspection fee costs that exceed the fee amount set by the City Council. All unused inspection fees shall be refunded to the subdivider upon satisfactory completion of all inspections.

2. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recording of the plat.

3. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.

4. A certificate with the seal of and signed by the surveyor responsible for the survey and final map.

5. Other certifications now or hereafter required by law.

M. County Tax Assessor Certification. County tax assessor verification is required on Final Plat stating that all taxes and assessments on the tract are paid.

90.60.090 Technical Review. Upon receipt of the final plat and accompanying data, the City Manager or designee shall review the final plat and documents to determine that the plan conforms with the approved tentative plat, and that there has been compliance with provisions of the law of this chapter. The City Manager or designee shall either approve, or deny the final plat based on findings regarding compliance with the following criteria. If the City determines that there has not been full conformity, the subdivider shall be advised of the changes or additions that must be made and will be afforded a reasonable opportunity to make such changes or additions.

Approval shall be granted, provided that:

A. Streets, roads, bikeways and pedestrian facilities, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.

B. Streets and roads bikeways and pedestrian facilities held for private use and indicated on the tentative plan of such subdivision or major partition have been approved by the city.

C. The proposal complies with Independence policies and plans, all provisions of this chapter, the Independence Zoning Code, and the Independence Public Works Standards.

D. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision or the major partition as approved, and all conditions of approval have been satisfied.

E. The plat contains a dedication to the public of all common improvements, including but not limited to streets, roads, bikeways and pedestrian facilities, parks, sewage disposal and water supply systems, the dedication of which was made a condition of the approval of the tentative plan for the subdivision or major partition.

F. The applicant has provided copies of all recorded homeowner association Codes, Covenants, and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g. for access, common areas, parking, etc.) and other recorded documents pertaining to common improvements recorded and referenced on the plat.

G. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect that the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating

the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U. S. Geological Survey or giving two or more permanent objects for identifying its location.

H. Either:

1. Improvements as required by this chapter or as a condition of tentative plan approval have been completed and a certificate of such fact has been filed with the City Manager or designee and a certification by the City that water and sanitary sewer service is available to each and every lot depicted on the plat; or

2. A performance agreement, or suitable substitute as agreed upon by the city and applicant, has been filed with the City Manager or designee in sufficient amount to insure the completion of all required improvements, as provided in 90.60.100 and 90.60.105 of this subchapter.

I. The subdivider shall provide:

1. A maintenance bond, in effect for a period of one (1) year, for all public improvements. The bond shall be equal to 30 percent of the construction cost of such improvements for a period of one year.

2. The subdivider shall submit, in writing, the date on which the one (1) year maintenance bond period shall begin.

J. Soils report.

1. Any area proposed for subdivision development shall be investigated to determine the soil characteristics, and a soils engineering report shall be submitted with every application. This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures, design criteria for corrective measures, and opinions and recommendations covering the adequacy of sites to be developed.

2. The investigation and subsequent report shall be completed and presented to the Commission by a geotechnical engineer registered in the State of Oregon and experienced and knowledgeable in the practice of soil mechanics.

3. Recommendations included in the report and approved by the geotechnical engineer shall be incorporated in the design plan or specifications. Recommendations shall include all new street section designs for a 30-year period. Residential footing and foundation design

shall also be included. Recommendations for construction methods and materials shall include both dry and wet weather construction conditions.

4. Any area which presents one or more of the following limiting factors shall not be subjected to development unless the geotechnical engineer can demonstrate conclusively that these limitations can be overcome in such a manner as to prevent hazard to life, hazard to property, adverse effects on the safety, use, or stability of a public way or drainage channel, and adverse impact on the natural environment:

- Water table within three feet of the surface at any time of the year;
- Natural slopes greater than 15 percent;
- Soils with a high shrink-swell potential; or
- Soils with a severe rating for the proposed use.

90.60.095 Approval of Final Plat. If the final plat is approved as provided under Section 90.60.090, the City Manager or designee shall so advise the Chairman of the Planning Commission who may then sign the plat without further action by the Planning Commission.

90.60.100 Agreement for Improvements. Before Planning Commission approval is certified on the final plat, the subdivider shall install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision. The subdivider may, in lieu of completion of the required improvements and repair to existing streets and facilities, request approval of an agreement between the subdivider and the City specifying the period within which required improvements and repairs shall be completed. The agreement shall not be effective until approved by the City Manager or designee. The agreement shall provide that if the work is not completed within the period specified, the city may complete the work and recover the full cost and expense thereof from the subdivider. The agreement may provide for the construction of the improvements in units and for an extension of time under specified conditions. The City Manager or designee may reject any agreement authorized by this section for any reason the City Manager or designee deems sufficient.

90.60.105 Bond.

A. The subdivider shall file with the agreement, to assure his full and faithful performance thereof, one of the following:

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City.

2. A personal bond cosigned by at least two additional persons, together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.

3. Cash, or pledge of approved securities.

B. Such assurance of full and faithful performance shall be for a sum determined by the City as sufficient to cover the cost of the improvements and repairs, including related city expenses.

C. If the subdivider fails to carry out provisions of the agreement and the City has unreimbursed costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the city, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for the difference.

D. The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.

90.60.110 Filing of Final Plat. Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to Polk County for signatures of County officials as required by ORS Chapter 92. Upon final recording, the applicant shall submit to the City three (3) copies of all sheets of the recorded final plat. This shall occur prior to issuance of building permits for the newly-created lots.

90.60.130 Resubmission Of Requests. Any request for a major partition or subdivision which has been denied by the Planning commission or City Council shall not be resubmitted for a period of one year following the date of the denial unless consent for resubmission is approved by the Planning Commission or the City Council.

90.60.135 Rescission Of A Land Use Action. Prior to final plat approval, any major partition or subdivision action granted under this chapter may be rescinded by the Planning Commission or City Council if it is found that the application for such action contains false statements, or if subsequent division, development, or use of land occurs in a manner different from that which was approved.

Subchapter 90.70 PLANNED UNIT DEVELOPMENT REGULATIONS

90.70.005 Planned Unit Development Standards. A planned unit development applied for as a conditional use under the city's Zoning Ordinance shall be reviewed and approved on the same basis as if the request were for a subdivision. No parcel of land or contiguous parcels under common ownership within the city shall be approved as a planned unit

development for transfer of ownership or building development so as to conflict with applicable standards for subdivisions as set forth in this chapter. The sale of condominiums developed from existing structures shall be considered a land division and shall be reviewed as a planned unit development under this chapter and Chapter 91 of the Independence City Code (Zoning).

Subchapter 90.80 IMPROVEMENTS

90.80.005 Improvement Requirements. The following improvements are summarily required in subdivision and major partitions, and may be applied to minor partitions as conditions for approval and shall be installed at the expense of the subdivider. Applicants may choose to follow the general/discretionary standards track or the Clear and Objective standards track, where offered, in the standards below:

A. Water Supply. Lots within a subdivision shall be served by a city water supply system conforming to Public Works Design Standards.

B. Sewage. All lots shall be served by a city sewage disposal system conforming to Public Works Design Standards.

C. Drainage. Such grading shall be performed and drainage facilities installed conforming to Public Works Design Standards.

D. Streets.

1. General/Discretionary Standard: The subdivider shall grade and improve streets in the subdivision and the extension of such streets to the paving line of existing streets with which such streets intersect in accordance with Public Works Design Standards.
2. Clear and Objective Standards:

    a. Wherever existing streets are within, adjacent to, or provide access to a property proposed for subdivision or partition, those existing streets must be improved to the standards of Public Works Design Standards.
    b. The subdivision or partition shall provide for the continuation of the principal streets existing in the adjoining subdivision or partition when adjoining property which is not subdivided, and such streets shall be of a width not less than the minimum requirements for streets set forth in Public Works Design Standards.
    c. During consideration of the tentative plan for the subdivision or partition, the Public Works Director shall determine whether

improvements to existing streets adjacent to or within the tract are necessary to meet the Public Works Design Standards. If so determined, such improvements shall be required as a condition of approval for the tentative plan.

E. Pedestrian Ways. Sidewalks shown on the street sections shall be installed as located on those sections as a result of the subdivision or major partition. The date of sidewalk installation shall conform with the procedures outlined in Subsection 90.90.105.

F. Bikeways. Bikeways consistent with the Independence Transportation System Plan shall be installed in accordance with Public Works Design Standards.

G. Monuments. Monuments shall be installed in accordance with Public Works Design Standards and with the requirements of the Oregon Revised Statutes.

H. Service Utilities.

1. General/Discretionary Standard: Before approval shall be given of any plat or plan of any subdivision, the subdivider shall provide for the installation of all service utilities in underground conduits and for easements thereof in the manner as hereby set forth and subject to the conditions set forth in this ordinance.
2. Clear and Objective Standard: All permanent utility services to lots or parcels in a subdivision or partition shall be provided from underground facilities. The subdivision or partition shall:

    a. Obtain a permit from the City for placement of all underground utilities;
    b. Make all necessary arrangements with the utility companies and other persons or corporations affected by the installation of such underground utilities in accordance with the rules and regulations of the State Public Utility Commission; and
    c. The city shall require installation of said utilities to any boundary line of the parcel being divided as to provide for the orderly extension of utilities or future development.

I. Above-Ground Utility Prohibited. In all new subdivisions in the City of Independence hereafter approved by the Commission it shall be unlawful for any service utility or utilities to be installed or used above the surface of the ground except on a temporary basis upon a special permit issued by the Building Official, but no use under such a special permit shall extend for a

total period of more than six months from the date of issue of the first permit therefore. All new street light poles shall be metal. The developer is responsible for any initial cost for such poles (one time fee and concrete footings). The developer will contact and coordinate this work with the appropriate utility.

J. Manner of Installation.

1. General/Discretionary Standard: All service utilities installed as herein provided shall be installed at a depth and in the manner conforming to city specifications.
2. Clear and Objective Standard: All service utilities shall be installed in public utility easements prior to the surfacing of such streets.

K. Acceptance of Public Improvements. Acceptance of all public improvements will comply with the City of Independence Public Works Standards.

L. Middle Housing Land Divisions. For middle housing developments where a Middle Housing Land Division is proposed, the following conditions shall be met.

1. Sidewalks are required for the parent lot and any child lots with street frontage.
2. Each resulting dwelling unit shall be served by a separate water service line and sewer service line.
3. Individual water service lines shall be connected to a public water main located either in the public right-of-way (ROW) or in a public easement on private property subject to the following conditions:

    a. The public water main is constructed to the City's Public Works Design Standards.
    b. Future repair or replacement of the public water main will be the responsibility of the City of Independence.
    c. If located in a public easement, the dimensions and location of the easement shall be approved by Public Works.

4. Individual sewer service lines shall be connected to a public sewer main located either in the public right-of-way (ROW) or in a public utility easement on private property subject to the following conditions:

    a. The public sewer main is constructed to the City's Public Works Design Standards.

b. Future repair or replacement of the public sewer main will be the responsibility of the City of Independence.
c. If located in a public easement, the dimensions and location of the easement shall be approved by Public Works.

5. Public utility easements shall comply with the Public Works Design Standards.

90.80.010 Improvement Procedures. All improvements shall conform to the requirements of this ordinance and the Public Works Design Standards.

A. Work shall not be commenced until plans have been reviewed for adequacy and approved by the City and the developer enters into a development agreement with the City. For evaluation of the subdivision proposal, the engineering plans will be required before approval of the final map or plat. All plans shall be prepared in accordance with the Public Works Design Standards. The fee for engineering plan review shall be set by the City Council.

B. Work shall not be commenced until the city has been notified in advance, and if work has been discontinued for any reason it shall not be resumed until the city has been notified. A pre-construction meeting with the city is required prior to any construction activity, including material storage and mobilization of equipment to the site.

C. Required improvements shall be inspected by the city to ensure they meet the Public Works Design Standards. The cost of improvement plan review and inspection will be paid by the developer in accordance with the fee schedule set by the City Council. The developer shall submit cost estimates for such improvements to the City for review and approval. The cost estimates must be prepared and stamped by a licensed engineer, registered in the State of Oregon.

D. Underground utilities, television cables, telephone lines, sanitary sewers and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities, television cable, telephone lines, and sanitary sewers shall be placed to lengths that will avoid the need to disturb street improvements when service connections are made.

E. As-builts shall be filed with the Public Works Department in compliance with the Public Works Standards by the subdivider/developer or their agent upon completion of the improvements.

Subchapter 90.90 DESIGN AND DEVELOPMENT STANDARDS

90.90.005 Principles of Acceptability. Subdivisions and major partitions shall conform to any development plans and shall take into consideration tentative plans made in anticipation thereof. Subdivisions and major partitions shall conform to the requirements of state law and the standards established by this chapter.

90.90.010 Streets.

A. General. The location, width, and grade of streets, bikeways and pedestrian facilities shall be considered in their relation to existing and planned streets, bikeways and pedestrian facilities, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. All streets, bikeways and pedestrian facilities shall connect to other said facilities within the development and to existing and planned streets, bikeways, and pedestrian facilities outside the development. Where location is not shown in the Independence Transportation System Plan, Public Works Design Standards, or another development plan, the arrangement of streets in a subdivision shall provide for the continuation or appropriate projection of existing and planned streets, bikeways and pedestrian facilities in surrounding areas.

B. Widths of street rights-of-way and paving design for streets shall comply with the Public Works Design Standards. Provided that streets within the Southwest Independence Concept Plan area shall be designed in accordance with the street cross sections provided in the Southwest Independence Concept Plan, except when modified by the Independence Transportation System Plan. Engineering staff may make exceptions to the standards based on individual site conditions.

C. The width of street rights-of-way shall comply with the Public Works Design Standards and be the minimum widths of rights-of-way for streets existing along and adjacent to any boundary of the subdivision or partition which is the natural or planned continuation of the alignment of the existing or proposed streets, and the applicant shall dedicate additional rights-of-way, as determined by the City for any such adjacent street where the existing width of rights-of-way for such street is less than the minimum in said table.

D. Street Standards. See Public Works Design Standards for right of way, street lanes, bike lanes, planter strip, and sidewalk widths.

E. Slope Easements. Slope easements shall be dedicated in accordance with the Public Works Design Standards.

F. Reserve Strips or Block. The City may require the land divider to create a reserve block controlling the access to a street, said block to be placed under the jurisdiction of the City, to:

1. Prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street.
2. Prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in the above table.
3. Prevent access to land abutting a street of the partition or subdivision, but not within the partition or subdivision itself.
4. Prevent access to land unsuitable for building development.

G. Alignment. As far as practical, streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall comply with the Public Works Design Standards.

H. Future Extension of Streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without a turnaround. Reserve strips or blocks may be required to preserve the objectives of street extensions.

I. Intersections of Streets:

1. Angles: Angles of street intersections shall comply with the Public Works Design Standards.

2. Offsets: Opposing intersections shall be designed in compliance with the Public Works Design Standards to ensure that no offset creates dangerous conditions for the traveling public.

3. Collector and Residential Lot Access to Arterials and Collectors: When residential development abuts an existing or proposed arterial or collector street, lot access shall connect to internal local streets or alleys and comply with the Public Works Design Standards.

J. Topography. The layout of streets shall be in accordance with Section 90.10.010 of this chapter and comply with the Public Works Design Standards.

K. Future Extension of Streets. Where the subdivision or partition is adjacent to land likely to be divided in the future, streets shall continue through boundary lines to provide for the orderly division of such adjacent land or the transportation and access needs of the community.

L. Existing Streets. Whenever existing streets adjacent to or within a tract are of inadequate width with regard to right-of-way and/or roadway pavement,

additional right-of-way and/or roadway pavement shall be provided by the developer(s) at the time of subdivision.

M. Cul-de-sac. The use of cul-de-sacs is discouraged and may only be approved upon a showing by the applicant that there are unusual or unique circumstances that justify the cul-de-sac.

For purposes of this section, “unusual or unique circumstances” exist when one of the following conditions prevent a required street connection:

1. Slopes are equal to or greater than 12 percent;

2. A wetland or other water body is present which cannot be bridged or crossed; or

3. Existing development on adjacent property prevents a street connection.

When cul-de-sacs are used, each cul-de-sac shall comply with the Public Works Design Standards. There shall be no cul-de-sacs more than 400 feet in length or serving more than 20 single-unit dwellings.

A public access way shall be required to connect two (2) adjoining cul-de-sacs consistent with the standards for public accessways in Section 90.90.015(D).

N. Street Names. Streets that are in alignment with existing named streets shall bear the names of such existing streets. Names for streets that are not in alignment with existing streets are subject to approval by the City of Independence, need written approval by the Polk County Fire District #1 and the Independence Police Department, and shall not unnecessarily duplicate or resemble the name of any existing or platted street in the City.

O. Grades and Curves. Grades and curves shall comply with the Public Works Design Standards.

P. Streets Adjacent to Railroad Rights-of-Way. Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

Q. Marginal Access Streets. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access

streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection or residential properties and to afford separation of through and local traffic. Access shall comply with 90.90.010(10)C of this section.

R. Alleys. Alleys shall be provided in commercial and industrial districts, and residential developments per IDC 90.90.010(V), unless other permanent provisions of access to off-street parking and loading facilities are approved by the Planning Commission. The corners of alley intersections shall have a radius of not less than 12 feet.

1. Dedication. The Planning Commission may require adequate and proper alleys to be dedicated to the public by the land divider of such design and in such location as necessary to provide for the access needs of the subdivision or partition in accordance with the purpose of Section 90.10.010 of this chapter.

2. Width. Width of right-of-way and paving design for alleys shall comply with the Public Works Design Standards. Slope easements shall be dedicated in accordance with specifications in the Public Works Design Standards.

3. Corner Cut-Offs. Where two alleys intersect, 10 feet corner cut-offs shall be provided.

4. Grades and Curves. Grades and curves shall comply with the Public Works Design Standards.

5. Other Requirements. All provisions and requirements with respect to streets in this subchapter shall apply to alleys the same in all respects as if the word "street" or "streets" therein appear as the word "alley" or "alleys" respectively.

S. Street trees are required in all new subdivisions in the amount of one tree for every 35 feet of street frontage. Species, size, location and installation construction will conform to the Independence Urban Forestry Management Plan, as adopted by the City Council and shall comply with the Public Works Design Standards. Street trees shall be installed prior to final plat approval or as allowed by an agreement with the City Manager or designee. Temporary irrigation may be required at the time of installation and shall be maintained by the developer as long as required by dry/hot weather conditions.

T. Mail Boxes. Plans for mail boxes to be used, including type and location, shall be approved by the Independence Postmaster.

U. Paving, strip, and signage. All street plans shall include all required street signs, traffic control signs, and pavement striping in accordance with the Public Works Design Standards.

V. Access Management. New access to arterials and collectors shall be limited. Shared or consolidated access shall be required for development or land divisions adjacent to these facilities unless demonstrated to be unfeasible.

1. Number of Access Points. All proposed development shall have access to a public right-of-way. Spacing requirements for access points and intersections on arterials and collector streets shall comply with the Public Works Design Standards and the Transportation System Plan.

2. The distance between access points shall be measured from the centerline of the proposed driveway or roadway to the centerline of the nearest adjacent roadway or driveway.

3. Frontage on Service Roads and Common Drives or Use of Alleys.

    a. Projects proposed on arterials shall include a frontage or service road or use an alley and shall take access from the facility rather than the arterial. This access requirement may be met through the use of interconnecting parking lots which abut the arterial.
    b. Adjacent uses may share a common driveway provided that appropriate access easements are granted between and among property owners.

4. Alternative Designs. Where natural features or spacing of existing driveways and roadways cause the foregoing access requirements to be physically unfeasible, alternate designs shall be reviewed in accordance with the Public Works Design Standards.

5. Access to Residential Lots. All lots in a proposed residential subdivision shall have frontage on and access from a local street or alley.

W. Bicycle Requirements. Bike lanes or shared bike lanes shall be provided during the construction, reconstruction, or relocation of arterial and collector streets. Design and construction of bikeways, or other public paths shall conform to the requirements of the Public Works Design Standards.

X. Pedestrian Requirements.

1. Sidewalk shall be constructed along all arterial, collector, and local service streets.

2. The design and construction of sidewalks and other public paths shall conform to the requirements of the Public Works Design Standards.

Y. Accessways. Where required:

1. Accessways shall be located to provide a reasonably direct connection between likely pedestrian and cyclist destinations. A reasonably direct connection is a route which minimizes out-of-direction travel for most of the people likely to use the multiple-use path considering terrain, safety, and likely destinations.

2. The design and construction of accessways shall conform to the requirements of the "Oregon Bicycle and Pedestrian Plan", ADA requirements, and City of Independence standards.

Z. Lighting. No illumination of pathways that are off street or in riparian areas shall be allowed, unless otherwise allowed by the Independence Public Works Director. Lighting of sidewalks along roadways shall comply with the Public Works Design Standards and IESNA Lighting Standards.

90.90.015 Blocks.

A. General. The length, width and shape of blocks shall take into account the need for adequate lot size and street width, access needs, and shall recognize the limitations of the topography.

B. Size. No block shall exceed 600 feet in length or have a perimeter of more than 1,600 feet, except as follows:

1. Blocks with a perimeter of up to 1,800 feet are allowed if the average perimeter of blocks within a development does not exceed 1,600 feet; or

2. The block is adjacent to an arterial street or topographic conditions or the location of adjoining streets justifying the need for a larger block.

C. Public Access Ways. When necessary for public convenience and safety, the Planning Commission may require the land divider to dedicate to the public access ways to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans, or to provide access to schools, parks or other public areas of such design, width, and location as reasonably required to facilitate public use. Where possible, said dedications may also be employed to accommodate uses as included in Subsection (D) of this section.

D. Easements for Utilities. Dedication of easements for storm water sewers, and for access thereto for maintenance, in order to safeguard the public against flood damage and the accumulation of surface water, and maintenance, and dedication of easements for other public utilities, may be required of the land divider at sufficient widths for their intended uses, by the Planning Commission along lot or parcel rear lines or side lines, or elsewhere as necessary to provide needed facilities for present or future development of the area in accordance with the purpose of this chapter. Such easements shall be dedicated to the City for the underground installation and maintenance of all service utilities that may be required.

90.90.020 Lots.

A. Access. Each lot shall abut upon a street other than an alley for a width of at least 25 feet.

B. Through Lots. Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages or topography and orientation. A planting screen easement across which there shall be no right of access may be required along the line of lots abutting such a traffic artery or other incompatible use. The planting screen easement width, installation construction, quantity of plantings, and species type shall conform to the Independence Urban Forestry Management Plan, as adopted by the City Council, and meet the requirements of Subchapter 54, Buffer and Screening.

C. Lot Side Lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lot or parcel face, except that on curved streets they shall be radial to the curve. Where incident solar radiation is a consideration, a side lot line may vary from the above requirement if the variation will improve solar access.

D. Flag Lots. Flag lots shall be subject to the following development standards:

1. The property line running perpendicular to the access road shall be considered the front yard line and shall be used to calculate front yard setback requirements.

2. The access strip shall be a minimum of 25 feet in width. The improved surface shall be a minimum of 12 feet in width.

3. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of the Zoning Code.

4. The length of the access strip shall not exceed 200 feet.

5. Where two flag lots abut, access shall be via a shared drive wherever possible. The improved surface shall be a minimum of 12 feet in width.

E. General Requirements.

1. Width. Widths of lots shall conform to the standard of the zoning ordinance.

2. Depth. Each lot and parcel shall have an average depth between the front and rear lines of not more than 2½ times the average width between side lines. Widths of lots shall conform to the standards of the zoning ordinance.

3. Area. Lot sizes shall conform to the standards set forth in the zoning ordinance.

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

A. Cut slopes shall not exceed three feet horizontally to one foot vertically.

B. Fill slopes shall not exceed two and one half feet horizontally to one foot vertically.

C. The character of soil for fill and the characteristics of lots made usable by fill shall be suitable for the purposes intended.

90.90.030 Suitability for Intended Use. All lots and parcels shall be suitable for the purpose of which they are intended to be used. No lot or parcel shall be of such size or design as to be detrimental to the health, safety, energy, or sanitary needs of the residents of the subdivision or partition, or of such lot or parcel, in accordance with the purpose of this chapter.

90.90.035 Building Lines. If special building setback lines are to be established in the subdivision they shall be included in the deed restrictions.

90.90.040 Future Subdivision or Partition of Lots or Parcels. Where the subdivision or partition will result in a lot or parcel one-half acre or larger in size, which in the judgment of the Planning Commission is likely to be further divided in the future, the Planning Commission may require that the location of lot and parcel lines and other details of layout be such that future division may readily be made without violating the requirements of this chapter, and without interfering with orderly extension of adjacent streets. Any restriction of buildings within future street locations shall be made a matter of record.

90.90.045 Platting and Mapping Standards - Drainage. Where land in subdivision or partition is or will be periodically subject to accumulations of surface water, or is traversed by any water course channel, stream, or creek, the Planning Commission may require the applicant to provide for adequate unrestricted drainage over drainage land by dedicating drainage easements. Drainage easements approved by the Planning Commission are established to provide designated areas for surface run-off from private or public land to be collected and flow to an approved outfall location. The easements are designated and platted to prevent future development of the area, which may obstruct the flow-way causing potential flooding. The width and length of the easements shall be determined by the City. All easements shall have clear and adequate access from a public street. All new development must conform with Subchapter 80, Storm Water Management Requirements, and any applicable State and Federal laws.

90.90.050 Platting and Mapping Standards & Railroads.

A. Crossings. Special requirements may be imposed by the Planning Commission, including but not limited to provisions for separation of street and railroad grades, connection with any railroad crossing which will immediately affect the safety of the residents of the subdivision or partition for the protection of such residents and the safety of the general public in accordance with the purpose of this chapter.

B. Subdivision or Partition Adjacent to Right-of-Way. Where the subdivision or partition is adjacent to a railroad right-of-way, and the surrounding economic and physical conditions indicate such property may be used for industrial purposes in the normal growth of the community, all streets shall be located at a sufficient distance from said right-of-way to allow for reasonable sites for industrial use adjacent to said right-of-way or buffer facilities will be provided adjacent to the right-of-way to minimize conflict between the railroad and adjacent land uses.

90.90.055 Platting and Mapping Standards - Partial Development. Where the subdivision or partition includes only a part of the area owned by the applicant, the Planning Commission may require a sketch of a tentative layout of streets in the remainder of said ownership.

90.90.060 Land for Public Purposes

A. The applicant shall dedicate to the City a tract of land within or adjacent to the proposed subdivision, not less than 6.25 percent of the gross area of said subdivision for public park and recreation purposes. Any tract of land dedicated shall be approved by the City as being suitable and adaptable for park and recreation uses.

B. At the option of the Planning Commission, the City may permit the applicant to pay a sum of money in lieu of dedication of land. Said sum shall equal 13.0 percent of the market value of the undivided land as of the date of final plat

approval, as carried on the tax roll or as determined by of the Polk County Assessor. Payment of said funds must be made at the time of approval of the final plat map.

C. All funds collected in lieu of land shall be credited to a public park and recreation development fund which may only be expended by resolution of the City Council for the purpose of acquiring land for park and recreation purposes or for the development of existing park lands.

90.90.065 Submitting Specification. The City shall adopt by ordinance specifications and amendments thereto for construction of streets and alleys, construction of curbs and gutters, dedication of slope easements for streets and alleys, construction of drainage facilities, and construction of pedestrian ways in subdivisions and partitions. Such specifications shall conform to proper engineering standards relevant thereto, and be so devised as to facilitate provision for the health, safety and welfare needs of the City and area affected, in accordance with the purpose of this chapter.

90.90.080 Improvements - Water Supply. All lots and parcels within subdivisions and partitions shall be served by the water system of the City of Independence.

90.90.090 Improvements - Land Surface Drainage. Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the partition or subdivision, or areas affected thereby, and for the preservation of wetlands, of healthful and convenient surroundings and conditions for residents of the subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council.

90.90.095 Improvements - Streets and Alleys. The developer is responsible for installing street lighting spaced horizontally as required by the appropriate utility and having, as a minimum, horizontal 9500 lumen H.P.S. fixtures. All new street light poles shall be metal. The developer is responsible for any initial cost for such poles (one time fee and concrete footings). The developer will contact and coordinate this work with the appropriate utility. The developer shall grade and pave all streets and alleys in the subdivision or partition to the width specified in this subchapter and provide for drainage of all such streets and alleys, and construct curbs and gutters within the subdivision or partitioning in accordance with specifications adopted by the City Council.

90.90.100 Improvements - Existing Streets. A subdivision or partition abutting or adjacent to an existing road of inadequate width shall dedicate additional right-of-way and/or pavement construction to the width specified in this subchapter. Off-site improvements, such as pavement construction or re-construction of existing street(s) proposed for access to the subdivision, which are inadequate or in failing condition, may be required.

90.90.105 Improvements - Sidewalks. Sidewalks shall be located and constructed in accordance with the provisions of this subchapter. If sidewalks are not to be installed

along with streets and required public utilities, the developer shall deposit with the City sums sufficient to install all sidewalks within the subdivision. As sidewalks are installed, funds will be released to the party causing the sidewalks to be installed. The funds released shall not exceed the per linear foot cost paid by the developer or the actual cost of the sidewalk, whichever is less. Any funds remaining after all sidewalks have been installed shall be returned to the developer. Sidewalks shall be installed on all lots, whether developed or not, within two years from the date the final plat is signed.

Subchapter 90.95 EXCEPTIONS AND VARIANCES

90.95.005 Application for Exception or Variance. Application for variance shall be submitted concurrently with submitting a tentative plan to the City for consideration and approval. An applicant may submit an application for variance of any provision of this chapter. Variance procedures and standards shall be subject to the provisions of Subchapter 70 of the Independence Zoning Code.

90.95.010 Exceptions in Case of Large Scale Development. The Planning Commission may modify the standards and requirements of this chapter if the subdivision plat comprises a complete neighborhood unit, a shopping center, a planned unit development, or a planned industrial area. The Planning Commission shall determine whether modifications are detrimental to the public health, safety, and welfare and that adequate provision is made within the development for traffic circulation, open space, and other features that may be required in the public interest.

90.95.025 Streets Exceptions.

A. The creation of streets shall be in conformance with requirements for subdivisions except, however, the Planning Commission shall approve the creation of a street to be established by deed if any of the following conditions exist:

1. The establishment of the street is initiated by the City Council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.

2. The tract in which the street is to be dedicated is an isolated ownership on one acre or less.

3. The tract in which the street is to be dedicated is an isolated ownership of such size and condition as to make it impractical to develop more than three lots.

B. In those cases where approval of a street may be given without full compliance with the regulations applicable to subdivision, a copy of the proposed deed shall be submitted to the City at least five days prior to the Planning Commission meeting at which consideration is desired. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Subchapter 90.90 of this chapter, shall be approved with such conditions as are necessary to preserve these standards.

Subchapter 90.100 SUBDIVISION OF A MANUFACTURED DWELLING PARK OR MOBILE HOME PARK

A. Subdivision of an existing manufactured dwelling park shall be approved provided:

1. The park is in compliance with all standards for a manufactured dwelling park or is an approved nonconforming use. A park is in compliance if the City has not issued a written notice of noncompliance on or before July 2, 2001;

2. The tentative subdivision plan does not increase the number of lots approved for the park, change the boundary lines, or setback requirements, or make other development changes; and

3. A plat is prepared and recorded in compliance with all regulations of this ordinance and Oregon Revised Statutes.

B. A subdivision of an existing manufactured home park is not required to meet the minimum lot size, frontage, setback requirements, or street standards of this ordinance or the Independence Zoning Code, with the following exception:

1. New structures located within yards abutting properties outside of the subdivision must meet all setback requirements or be approved for a variance.

C. A subdivision of an existing manufactured home park shall be subject to formation of a homeowners association for continued maintenance of streets and open space areas within the subdivision.

Subchapter 90.105 EXPEDITED LAND DIVISIONS

90.105.010 Expedited Land Division Definition and Approval Criteria.

A. An expedited land division:

1. Is an action of a local government that:

a. Includes land that is zoned for residential uses and is within an urban growth boundary.

b. Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.

c. Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the

comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:

i. Open spaces, scenic and historic areas and natural resources; or

ii. The Willamette River Greenway.

d. Satisfies minimum street or other right-of-way connectivity standards established by the Independence Zoning Code or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.

e. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site.

2. Is a land division that:

a. Will create 3 or fewer parcels under ORS 92.010; and

b. Meets the criteria set forth for an action under paragraph 90.100(A)(1) of this subchapter.

B. An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.

C. The provisions of Subchapter 90.100 apply to all elements of the Independence Comprehensive Plan and land use regulations applicable to a land division, including any planned development standards and any procedures designed to regulate:

1. The physical characteristics of permitted uses;

2. The dimensions of the lots or parcels to be created; or

3. Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.

D. An application for an expedited land division shall describe the manner in which the proposed division complies with each of the provisions of subsection 90.105.010(A)(1).

90.105.020 Application for Expedited Land Division; Notice Requirements; Procedure.

A. When requested by an applicant for an expedited land division, in lieu of the procedure set forth in the Independence Zoning Code, the City shall use the following procedures for an expedited land division:

1. If the application for expedited land division is incomplete, the City Manager or designee shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.

2. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

B. The City shall provide written notice of the receipt of the completed application for an expedited land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property as per type of land division (i.e., subdivision, 300 feet; partitions, 200 feet). The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under Section 90.105.040, this requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the City or Polk County and whose boundaries include the site.

C. The notice required under subsection 90.100.020(B) shall:

1. State:

a. The deadline for submitting written comments;

b. That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and

c. That issues must be raised with sufficient specificity to enable the City to respond to the issue.

2. Set forth, by commonly used citation, the applicable criteria for the decision.

3. Set forth the street address or other easily understood geographical reference to the subject property.

4. State the place, date, and time that comments are due.

5. State a time and place where copies of all evidence submitted by the applicant will be available for review.

6. Include the name and telephone number of a local government contact person.

7. Briefly summarize the local decision-making process for the expedited land division decision being made.

D. After notice under subsections 90.105.020(B) and (C), the City shall:

1. Provide a 14-day period for submission of written comments prior to the decision.

2. Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the City's land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the City:

a. Shall not hold a hearing on the application; and

b. Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.

3. Provide notice of the decision to the applicant and to those who received notice under subsection 90.105.020(B) of this section within 63 days of the date of a competed application. The notice of decision shall include:

a. The summary statement described in paragraph (2)(b) of this subsection; and

b. An explanation of appeal rights under Section 90.105.040.

90.105.030 Failure to Approve or Deny Application Within Specified Time.

A. Except as provided in subsection B of this section, if the City does not make a decision on an expedited land division with 63 days after the application is deemed complete, the applicant may apply in the Polk County Circuit Court for a writ of mandamus to compel the City to issue the approval. The writ shall be issued unless the City shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of Section 90.100.010. A decision of the circuit court under this section may be appealed only to the Court of Appeals.

B. After seven (7) days' notice to the applicant, the City may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of Sections 90.105.010 to 90.105.050, including the mandamus remedy provided by subsection A of this section, shall remain applicable to the expedited land division, except that the extended period shall be substituted for the 63-day period wherever applicable.

C. The decision to approve or not approve an extension under subsection B of this section is not a land use decision or limited land use decision.

90.105.040 Appeal of Decision on Application for Expedited Land Division; Notice Requirements; Standards for Review; Procedure; Costs.

A. An appeal of a decision made under Sections 90.105.010 and 90.105.020 shall be made as follows:

1. An appeal must be filed with the City within 14 days of mailing of the notice of the decision under Section 90.105.020(D), and shall be accompanied by the appropriate fee for costs.

2. A decision may be appealed by:

a. The applicant; or

b. Any person or organization who files written comments in the time period established under Section 90.105.020.

3. An appeal shall be based solely on allegations:

a. Of violation of the substantive provisions of the applicable land use regulations;

b. Of unconstitutionality of the decision;

c. That the application is not eligible for review under Sections 90.105.100 to 90.105.050 and should be reviewed as a land use decision or limited land use decision; or

d. That the parties' substantive rights have been substantially prejudiced by an error in procedure by the local government.

B. The City shall appoint a referee to decide the appeal of a decision made under Sections 90.105.010 and 90.105.020. The referee shall not be an employee or official of the local government. However, if the City has designated a hearings officer under ORS 215.406 or 227.165, the City may designate the hearings officer as the referee for appeals of a decision made under Sections 90.105.010 and 90.105.020.

C. Within seven (7) days of being appointed to decide the appeal, the referee shall notify the applicant, the City, the appellant if other than the applicant, any person or organization entitled to notice under Section 90.105.020(B) that provided written comments to the City and all providers of public facilities and services entitled to notice under Section 90.105.020 and advise them of the manner in which they may participate in the appeal. A person or organization that provided written comments to the City but did not file an appeal under subsection A of this section may participate only with respect to the issues raised in the written comments submitted by that person or organization. The referee may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument. The referee shall provide the City an opportunity to explain its decision, but is not limited to reviewing the City's decision and may consider information not presented to the City.

D.

1. The referee shall apply the substantive requirements of the applicable land use regulations and Section 90.105.010. If the referee determines that the application does not qualify as an expedited land division as described in Section 90.105.010, the referee shall remand the application for consideration as a land use decision or limited land use decision. In all other cases, the referee shall seek to identify means by which the application can satisfy the applicable requirements.

2. The referee may not reduce the density of the land division application. The referee shall make a written decision approving or denying the application or approving it with conditions designed to ensure that the application satisfies the land use regulations, within 42 days of the filing of

an appeal. The referee may not remand the application to the City for any reason other than as set forth in this subsection.

E. Unless the City finds exigent circumstances, a referee who fails to issue a written decision within 42 days of the filing of an appeal shall receive no compensation for service as referee in the appeal.

F. Notwithstanding any other provision of law, the referee shall order the City to refund the deposit for costs to an appellant who materially improves his or her position from the decision of the local government. The referee shall assess the cost of the appeal in excess of the deposit for costs, up to a maximum of $500, including the deposit paid under subsection A of this section, against an appellant who does not materially improve his or her position from the decision of the City. The City shall pay the portion of the costs of the appeal not assessed against the appellant. The costs of the appeal include the compensation paid the referee and costs incurred by the City, but not the costs of other parties.

G. The Land Use Board of Appeals does not have jurisdiction to consider any decision, aspects of decisions or actions made under Sections 90.105.010 to 90.105.050.

H. Any party to a proceeding before a referee under this section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 and 197.855. The Court of Appeals shall review decisions of the referee in the same manner as provided for review of final orders of the Land Use Board of Appeals in those statutes. However, notwithstanding ORS 197.850(9) or any other provision of law, the court shall reverse or remand the decision only if it finds:

1. That the decision does not concern an expedited land division as described in Section 90.105.010 and the appellant raised this issue in proceedings before the referee;

2. A basis to reverse or remand the decision described in ORS 36.355(1); or

3. That the decision is unconstitutional.

90.105.050 Application Fees for Expedited Land Division.

Application fees for Expedited Land Division shall be the same as for subdivisions if more than three (3) lots will be created, and the same as for partitions if less than four (4) lots will be created.

Subchapter 90.110 LOT LINE ADJUSTMENTS

The procedures and requirements in this section apply to the relocation of a common property line between two abutting properties.

90.110.010 Process

A. A lot line adjustment application may be submitted by the property owner, contract purchaser or an authorized agent of the owner or contract purchaser.

B. A lot line adjustment application is processed as a Type I procedure pursuant to Section 11.002 of the Independence Zoning Code.

90.110.020 Submittal Requirements

A. In addition to the completed application form, the applicant shall also submit:

1. A map that shows the configuration of each parcel before the proposed adjustment.

2. A map that shows the configuration of each parcel after the proposed adjustment.

90.110.030 Evaluation Criteria

A. Approval of the lot line adjustment shall not be granted unless each of the following criteria are met:

1. The number of lots or parcels as large as the minimum lot size in the affected zone is at least the same after the adjustment as before the adjustment.

2. The number of lots or parcels resulting from the adjustment is the same or less than the number of lots or parcels existing prior to the adjustment.

3. If a lot or parcel will be split-zoned after the adjustment, each portion of the lot or parcel that is in a separate zone shall meet the minimum lot size for that zone.

4. All lots or parcels having access to a public or private street before the adjustment must retain access after the adjustment.

5. The adjustment shall not reduce the street access for any lots or parcels to a size or dimension that does not meet the minimum standards required by the Independence Zoning Code.

6. The lot line adjustment shall not reduce any required development feature or standard, such as parking, landscaping, or building setbacks, to a size or dimension that does not meet the minimum standards of the Independence Zoning Code.

90.110.040 Final Survey

A. In order to finalize the lot line adjustment process, Oregon Revised Statutes (ORS), Section 92.060(7) requires that the adjustment of a common boundary shall be surveyed and monumented, and a survey, complying with ORS 209.250, shall be filed with the County Surveyor. The survey shall be recorded with Polk County within one (1) year of the written approval or the decision shall be null and void, with the following exceptions:

1. The survey requirement shall not apply to the relocation of a common boundary of a lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even width along the common boundary (a line is adjusted parallel to its current location with no change in its length); or

2. The survey requirement shall not apply to the sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets, or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.

B. The applicant shall submit a copy of the recorded lot line adjustment survey map to the City within 15 days of recording and prior to issuance of any building permits on the re-configured lots.

Subchapter 90.115 MIDDLE HOUSING LAND DIVISIONS

A Middle Housing Land Division (MHLD) is a partition or subdivision of a lot or parcel on which middle housing is developed or proposed. MHLDs are regulated by this Code and ORS 92.031. The purpose of an MHLD is to provide a simplified and expedited process for subdividing or partitioning lots with middle housing so that each unit is on a separate property, which enables the units to be sold and owned individually.

A. Applicability. MHLDs are available in zoning districts where middle housing is permitted under this Code. Middle housing development that is eligible for an MHLD may consist of:

1. A single duplex, triplex, quadplex, cottage cluster, or structure containing townhouses;
2. Any retained or rehabilitated existing units on the lot or parcel that is part of the middle housing development.
3. An MHLD creates two (2) or more lots or parcels from a single parent lot on which middle housing is developed or proposed. After a MHLD is completed, the resulting lots or parcels are “child lots” or “middle housing lots.” The approved development is still subject to the requirements and development standards that applied to the parent lot prior to the MHLD. In addition, the resulting development is still defined as and subject to the development standards that apply to the original middle housing type after an MHLD is completed (e.g., a duplex that undergoes an MHLD does not become a townhouse development; the structure and property are still subject to requirements/standards for a duplex).

B. Application Timing and Sequencing.

1. An application for an MHLD shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant’s responsibility to submit a complete application that addresses the review criteria of this Section.
2. An application for a tentative plan for an MHLD may be submitted before, after, or at the same time as the submission of an application for building permits for the middle housing.
3. An application for a tentative plan for an MHLD may be submitted at the same time as an application for a standard subdivision or partition. The standard land division would create the parent lot(s), and the MHLD would further subdivide the lot(s) into middle housing child lots.
4. An application of one or more than one MHLD submitted at the same time as an application for a standard subdivision or partition will be consolidated into a single application subject to the procedural requirements for the standard subdivision or partition.
5. Within the same calendar year as an original partition that was not an MHLD, one or more of the resulting vacant parcels may be further partitioned into 3 or fewer parcels through an MHLD.

6. Approval of the creation of MHLD parent lots does not constitute approval of a MHLD on such lots unless all of the requirements of Section 90.115 are satisfied.

C. Tentative Plan Approval Criteria. Approval of a tentative plan for an MHLD will be granted if the City Planning Official finds that the applicant has met all of the criteria in Subsections (1) through (6), below. The City's standard tentative plan approval criteria do not apply.

1. The middle housing development, including all existing and proposed structures, complies with:

    a. The Oregon Residential Specialty Code; and
    b. The middle housing regulations applicable to the parent lot, including, but not limited to the provisions in this Code.

2. Exactly one dwelling unit will be located on each resulting child lot except for:

    a. Lots, parcels, or tracts used as common areas, on which no dwelling units will be permitted; or
    b. Lots or parcels with an existing detached single-unit dwelling and accessory dwelling unit or an existing duplex, as allowed under Subchapter 17. Such existing units shall be considered a single middle housing unit for the purposes of the MHLD.

3. Utility service connections will be provided for each child lot and associated dwelling as described in Section 90.80.005 of this Code.

4. Easements will be provided as necessary for each dwelling unit on the site for:

    a. Locating, accessing, replacing, and servicing all utilities;
    b. Pedestrian access from each dwelling unit to a private or public road;
    c. Access to any common use areas or shared building elements; and
    d. Access to any dedicated driveways or parking.

5. Buildings or structures on a resulting child lot will comply with applicable building code provisions.

6. Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant to requirements of Sections 90.80 and 90.90 of this ordinance and consistent with the Public Works Design Standards.

D. Tentative Plan Submittal Requirements. An application for an MHLD tentative plan shall include the following:

1. The boundaries, dimensions, and area of the lot;
2. The location, width, and names of all proposed streets, flag lot accessways, and public accessways, including those abutting the perimeter of the lot;
3. The location and use of all existing and proposed buildings and accessory structures on the lot, indicating the distance of such buildings and accessory structures to all property lines and adjacent on-site structures and identification of any that will be removed;
4. The location of all existing and proposed off-street parking and vehicle use areas;
5. The location of all existing or proposed public utility connections for each dwelling unit, demonstrating compliance with approval criterion 90.115(C) and with Sections 90.80 and 90.90;
6. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion in Section 90.115(C).
7. A description of the manner in which the proposed land division will satisfy the approval criteria in Section 90.115(C).
8. Copies of approved building permits or building permit applications, or comparable information necessary to demonstrate compliance with building code standards, and an accompanying site plan demonstrating compliance with criteria in Section 90.115(C).

E. Tentative Plan Conditions of Approval. The City may attach conditions of approval of a tentative plan for an MHLD to:

1. Prohibit further division of the resulting child lots.
2. Require that a notation appear on the final plat indicating:

    a. The approval was given under ORS 92.031.
    b. The type of middle housing approved on the subject site and noting that the middle housing type shall not be altered by the MHLD (e.g., a duplex that undergoes an MHLD does not become another type of middle housing or a single family detached home; the structure and property are still subject to requirements/standards for a duplex).
    c. Accessory dwelling units are not permitted on resulting child lots.

3. The City may require that all public improvements and site improvements needed to satisfy approval criteria in Section (C) and the applicable standards of the City's code are constructed or guaranteed prior to the approval and signing of the final plat for the development.
4. The preliminary approval of an MHLD is void if and only if a final MHLD plat is not recorded within 3 years of the preliminary approval.

F. Tentative Plan Procedure. An application for a MHLD can utilize the following procedures:

1. Expedited Procedure. Unless the applicant requests to use the City's standard land division procedure or a MHLD is submitted concurrent with a standard subdivision (and is requested to be reviewed concurrent with the subdivision), the City shall apply the procedure used for an Expedited Land Division, as provided below and in ORS 197.365. A decision for an MHLD processed under ORS 197.365 is not subject to the requirements of ORS 197.797.

    a. The City Planning Official shall make a decision to approve or deny the application and shall provide notice of the decision to the applicant within 63 days of receiving a completed application, as described in ORS 227.178. Notice shall not be provided to any other person.
    b. The MHLD review process does not include a hearing and the City does not accept public comment from third parties.
    c. The City shall issue a written determination of compliance or noncompliance with the approval criteria in Subsection (C). An approval may include conditions of approval pursuant to Subsection (E) to ensure that the application meets all applicable requirements.
    d. The written determination shall include a summary statement explaining the determination and an explanation of the applicant's right to appeal the determination under ORS 197.830 to 197.855.
    e. The applicant shall pay a fee according to the City's fee schedule.
    f. Only the applicant may appeal a decision for an MHLD processed as an Expedited Land Division made under this section.

2. Standard Procedure. If requested by the applicant as an alternative to use of the Expedited Procedure described in subsection (a) above or a MHLD is submitted at the same time as an application for a standard subdivision or partition (and the applicant requests a concurrent review), the City shall review an MHLD under the same procedure that applies to a standard land division.

G. Final Plat Requirements. An application for an MHLD final plat shall meet the City's requirements and approval criteria that apply to a standard subdivision or partition final plat per Section 90.60.075.

SUBCHAPTER 100: ENFORCEMENT

100.001 Responsible Officers

The Zoning Ordinance shall be administered and enforced by the City Manager, or the Manager's designee.

100.002 Building Permit

No building permit shall be issued by the Building Official for any authorized development unless the Manager has determined that the proposed development complies with the provisions of this zoning ordinance and the required development permit has been issued.

100.003 Certificate of Occupancy

No certificate of occupancy shall be issued by the Building Official for any development unless all requirements of this zoning ordinance have been met or until the applicant has provided some written form of assurance acceptable to the Manager guaranteeing the completion of all requirements.

100.004 Stop Work Order

Whenever any work is being done contrary to the provisions of this zoning ordinance, the Manager may order the work stopped by notice in writing served on any persons engaged in the work, and any such persons shall immediately stop such work until authorized by the Manager to proceed. If no persons are engaged in the work at the time such notice is served, or after such service has been effected, the City Manager shall cause the Notice to be posted on the property where the violation has occurred.

100.005 Violations

Use of land in the City of Independence not in accordance with the provisions of this zoning ordinance constitutes a violation. Upon receiving information concerning a violation of this zoning ordinance, the Manager may conduct, or cause to be conducted, an investigation determining whether a violation exists. The Manager may request the assistance of other public agencies and officers in the conduct of such investigations.

The Manager may prepare and deliver to the City Attorney a request for prosecution indicating the location and nature of the suspected violation, applicable code sections, and other information staff may have.

100.006 Notice of Violation

After receiving a report of an alleged violation from the Manager, the City Attorney shall,

if he/she determines that reasonable suspicion exists, promptly give notice of the alleged violation by certified first class mail, return receipt requested, or personal service to the owner of record for tax purposes and to the person in charge of the property. Such a notice shall indicate the following:

A. Location and nature of the violation; and

B. Provision or provisions of this zoning ordinance which allegedly have been violated; and

C. Whether immediate enforcement will be sought or if 15 days will be allowed to correct of remove the violation. Immediate enforcement will be sought in a situation involving a health hazard or other nuisance that unmistakably exists and from which there is imminent danger to human life or property; and

D. The date of the notice shall be the date of personal service of the notice, or if notice is accomplished by first class mail, 3 days after mailing if the address to which it was mailed is within this State and 7 days after mailing if the address to which it was mailed is outside the state. However, a defect in the notice of violation with respect to such matter shall not prevent the enforcement of this zoning ordinance.

100.007 City Attorney to Pursue Enforcement

As soon as the compliance deadline has expired, the City Attorney shall proceed with any legal or equitable action deemed appropriate.

100.008 Penalties

A violation of this zoning ordinance may be the subject of administrative, criminal, civil or other sanctions authorized under ordinance of the city.

100.009 Monetary Penalties

Unless otherwise specified, every violation of the terms of this zoning ordinance is a Class A infraction, punishable by a fine of up to $500.00. Each day such violation continues shall be considered a separate offense.

100.010 Non-Monetary Penalties and Remedies

In addition to, or in lieu of, monetary penalties, a violation of this zoning ordinance or a permit issued hereunder may subject the violator to mandatory and prohibitory injunctions and orders of abatement. The Municipal Court shall be authorized to issue such process or orders pertaining to the enforcement of this ordinance.

100.011 Tampering with Official Notices

1. No person shall remove or tamper with a notice posted on property pursuant to the provisions of this Zoning Code unless authorized by the Manager.

2. A violation of this provision shall be a Class A infraction