

**KLAMATH COUNTY
LAND DEVELOPMENT CODE
REVISIONS 1990 THRU 1995**

HEALTH DEPARTMENT (Env.)

County - Planning Department

ESPLANADE AVENUE, KLAMATH FALLS, OREGON 97601

TO: Holders of Klamath County's Land Development Code

FROM: Klamath County Planning Department

RE: Revision Pages for Land Development Code

DATE: March 14, 1995

Enclosed are replacement pages for your copy of the Klamath County Land Development Code. These replacement pages represent amendments adopted by the Board of County Commissioners under Ordinance 45.31 (extensive revisions throughout Code book) and Ordinance 44.41 (Destination Resort Overlay). Please insert the replacement pages into your copy of the Land Development Code so it remains up to date.



County - Planning Department

503-883-4200 — COMMUNITY DEVELOPMENT SERVICES — 334 MAIN STREET KLAMATH FALLS, OREGON 97601

TO: Holders of Klamath County's Land Development Code
FROM: Klamath County Planning Department
RE: Revision Pages for Land Development Code
DATE: September 14, 1993

Enclosed are replacement pages for your copy of the Klamath County Land Development Code. These replacement pages represent amendments adopted by the Board of County Commissioners under Ordinance 44.38 relating to the minimum lot size in the Forestry Range zone. Please insert the replace pages into your copy of the Land Development Code so it remains up to date.



See 6/17/93

Klamath County ~ Planning Department

503-883-4200 — COMMUNITY DEVELOPMENT SERVICES — 334 MAIN STREET KLAMATH FALLS, OREGON 97601

TO: Holders of Klamath County's Land Development Code
FROM: Klamath County Planning Department
RE: Revision Pages for Land Development Code
DATE: June 8, 1993

Enclosed are replacement pages for your copy of the Klamath County Land Development Code. These replacement pages represent amendments adopted by the Board of County Commissioners under Ordinances 45.29 and 45.30. Please insert the replace pages into your copy of the Land Development Code so it remains up to date.



Klamath County ~ Planning Department

503-883-4200 — COMMUNITY DEVELOPMENT SERVICES — 334 MAIN STREET KLAMATH FALLS, OREGON 97601

TO: Holders of Klamath County's Land Development Code
FROM:  Cari Shuck, Planning Director
DATE: May 7, 1992

Enclosed are replacement pages for your copy of the Klamath County Land Development Code. These replacement pages represent amendments adopted by the Board of County Commissioners under Ordinances 45.26, 45.27, and 45.28 and typographical error corrections. Please insert these pages in your copy of the Land Development Code. Future amendments will be sent to you. If you have any questions, please feel free to call.



Klamath County ~ Planning Department

503-883-4200 — COMMUNITY DEVELOPMENT SERVICES — 334 MAIN STREET KLAMATH FALLS, OREGON 97601

October 25, 1990

Concerned Local, State, and Federal Agencies:

Enclosed is a copy of the new, updated Klamath County Land Development Code which will become effective November 15, 1990. This Code reflects changes adopted by the Board of Commissioners on August 15, 1990, and should completely replace your old copy.

If you have any questions, please feel free to call.

Sincerely,

Carl Shuck
Planning Director

Enclosure

**LAND DEVELOPMENT CODE
ORDINANCE SERIES 45
TABLE OF DISPOSITION**

<u>No.</u>	<u>Date</u>	<u>Subject</u>	<u>Disposition</u>
45	11/25/81	Land Development Code	Replaced
45.1	12/21/82	Land Development Code	Repealed
45.2	2/16/84	Land Development Code	Repealed
45.3	12/18/84	PUD and Geothermal zones	Repealed
45.4	12/18/84	Revised flood zone	Repealed
45.5	2/15/85	Miscellaneous revisions	Repealed
45.6	4/03/86	Miscellaneous revisions	Repealed
45.7	9/11/86	Miscellaneous revisions	Repealed
45.8	11/12/86	Miscellaneous revisions	Repealed
45.9	3/26/87	Revised flood zone	Repealed
45.10	8/11/87	Miscellaneous revisions	Repealed
45.11	5/23/89	Mineral extraction	Repealed
45.12	12/19/88	Limited Use overlay zone	Repealed
45.13	2/28/89	Use classification	Repealed
45.14	5/09/89	Review authority	Repealed
45.15	11/08/89	Review authority	Repealed
45.16	3/27/90	Partitions and subdivisions	Repealed
45.17	11/15/90	Land Development Code update	Adoption
45.18	5/3/91	Miscellaneous revisions	Adoption
45.19	7/5/91	Land Development Code revisions	Adoption
45.20	7/5/91	Land Development Code revisions	Adoption
45.21	7/5/91	Land Development Code revisions	Adoption

<u>No.</u>	<u>Date</u>	<u>Subject</u>	<u>Disposition</u>
45.22	7/5/91	Land Development Code revisions	Adoption
45.23	7/5/91	Land Development Code revisions	Adoption
45.24	11-8-91	Land Development Code revisions	Adoption
45.25	12-6-91	Land Development Code revisions	Adoption
45.26	3-6-92	Land Development Code revisions	Adoption
45.27	5-8-92	Land Development Code revisions	Adoption
45.28	4-30-92	Land Development Code revisions	Adoption
45.29	6-5-93	Land Development Code revisions	Adoption
44.39A	11-5-94	Land Development Code revisions to Articles 54, 55, and 55.2 Effective Date: 11-5-94	Adoption
45.31	3-17-95	Land Development Code revisions	Adoption

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CHAPTER 1
GENERAL PROVISIONS

ARTICLE 100
ENACTMENT

10.010 - TITLE

This code shall be known as the Klamath County Land Development Code.

10.020 - PURPOSE

The purpose of the Land Development Code is to coordinate Klamath County regulations governing the use and development of land, and more specifically:

- A. To implement the Klamath County Comprehensive Plan and to guide and manage the future growth of the County in accordance with that plan;
- B. To promote and to protect the public health, safety, and general welfare of the citizens of Klamath County;
- C. To regulate land use in a manner that will encourage and support the orderly development and beneficial use of lands within the County;
- D. To assist the public in identifying and understanding regulations affecting the development and use of specific parcels of land.

10.030 - AUTHORITY

The Land Development Code is enacted pursuant to Oregon Revised Statutes, Chapter 215.

10.040 - RELATIONSHIP TO OTHER CODES AND ORDINANCES

The Land Development Code, as codified herein, also shall be referenced as Division 3 of the Klamath County code and may be cited as such. Unless otherwise specified, references and citations as used in this code shall refer to the Klamath County Land Development Code.

10.050 - REPLACEMENT OF OTHER ORDINANCES

The Klamath County Land Development Code replaces all previously enacted zoning ordinances and subdivision ordinances of Klamath County.

10.060 - REPEALER

Klamath County Ordinances Numbers 45.2 through 45.16 are repealed in their entirety. All actions taken under any previously enacted Klamath County zoning ordinance or subdivision ordinance shall remain in effect subject to the original conditions of approval.

10.070 - SEVERABILITY

If any provisions or portions of this code, or the application thereof to any property or person is held invalid, the remainder of the code and the application of such provisions to other persons or lands shall not be affected.

ARTICLE 11 DEFINITIONS

11.010 - PURPOSE

The purpose of this article is to define the terms and phrases of this code which are technical, specialized, or may not reflect common usage.

11.020 - DEFINITIONS INCLUDED BY REFERENCE

In addition to the definitions in this article, the following are incorporated by reference. If any definition in this code conflicts with a definition included by reference, the definition of state statute shall prevail except where this code is more restrictive. Where inconsistencies are found between definitions in this section and definitions in other sections, definitions in this section shall prevail.

- A. Oregon Revised Statutes
Chapter 197 - Comprehensive Plan Coordination; Planning Districts
- B. Oregon Revised Statutes
Chapter 215 - County Planning; Zoning; Housing Codes
- C. Oregon Revised Statutes
Chapter 92 - Subdivisions and Partitions

11.030 - TERMS DEFINED

ACCEPTED FARM PRACTICE - A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

ACCESSORY BUILDINGS AND USES - Buildings and uses that are incidental and subordinate to the main use of property, and are established only subsequent to the main property use. Such buildings and uses include, but are not limited to garden sheds, garages, carports and personal use storage sheds.

ACCESS OR ACCESS WAY - The place or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to or from property or use.

ADMINISTRATIVE SERVICES - Consulting, record keeping, clerical or other similar services that deal directly with the public, together with incidental storage and the maintenance of necessary equipment and vehicles. Typical uses include government administrative buildings and post offices and substations.

AGRICULTURAL LAND - Lands classified by the U.S. Soil Conservation Service as predominantly (50% or more) Class I-VI soils, lands in other soil classifications that are suitable for farm use as defined in ORS 215.203(2)(a), taking into account soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices; land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands. Agricultural land does not include land within acknowledged exception areas for goals 3 and 4.

AGRICULTURAL PACKING AND PROCESSING - The commercial packaging and processing of agricultural crops, animals, and their by-products. Packing and processing operations are not limited to agricultural commodities grown on premises or in the immediate area. Typical uses include grain and fruit processing facilities, potato processing plants, canneries, slaughter and packing houses.

AGRICULTURAL SUPPLIES AND SERVICES - Establishments where more than fifty percent of business is directed to wholesale and retail trade and incidental storage of agricultural products and services such as feed, fertilizers, seed, irrigation and small equipment. Typical uses include feed and grain stores.

AGRICULTURAL WASTE PROCESSING - Facilities and operations primarily engaged in the collection, processing, reuse, and/or disposal of agricultural animal waste or similar by-products of agricultural operations such as animal parts, tallow, manure, or crop residue.

AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet above mean sea level.

AIRPORT HAZARD - Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

AISLE - An access way to required vehicular parking spaces within a parking lot.

ANIMAL, LARGE - Cattle, horses, sheep, goats, pigs and llamas of any age, raised and kept for primarily personal purposes.

ANIMAL, SMALL - Rabbits, chickens, ducks, geese or other fowl and similar animals raised and kept for personal consumptive purposes. "Small animal" does not include dogs or cats kept for personal companion purposes.

ANIMAL, SPECIALTY - Any game mammal, fur-bearing mammal or game bird as defined by ORS 496.004, or any exotic, non-native, or potentially dangerous animal raised and kept for primarily personal purposes.

ARCHAEOLOGICAL RESOURCES - Those districts, sites, buildings, structures and artifacts which possess material evidence of human life and culture of the prehistoric and historic past.

ARCHITECTURAL FEATURE - Openwork fences, open-air grills, decorative facade which may or may not be attached to the main building, and may project therefrom. This does not include patio.

AREA - That area of a lot or parcel of land exclusive of:

- A. Public alleys, highways or streets, unless otherwise provided herein; or
- B. Proposed public facilities such as alleys, highways, streets or other necessary public sites when included within a proposed development project, unless otherwise provided herein.

AREA OF SHALLOW FLOODING - A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - The land in the Flood Plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on FIRM maps always include the letters A or V.

ARTERIAL STREET - Streets which bring traffic to and from freeways, serve major movements of traffic within or through urban areas, and which serve important rural routes.

AUTO AND LIGHT EQUIPMENT SALES/RENTALS/SERVICE - Establishments for the wholesale and retail sale, lease, rental, service, and incidental storage of automobiles, light-duty noncommercial trucks, motorcycle, boats, recreational vehicles, and noncommercial trailers. Typical uses include car dealerships, car rental agencies, and recreation vehicle sales and service.

AUTO REPAIRS - Repair of automobiles, light-duty noncommercial trucks, motorcycles, recreational vehicles, and the sale, installation and servicing of automobile equipment and parts. Typical uses include auto body repairs and painting, service garages, muffler shops, auto glass shops, and tire, battery and accessory stores.

AUTO SERVICE STATION - Establishments or places of business primarily engaged in the retail sale of petroleum products along with the incidental sale of tires, batteries, replacement items, grocery/convenience items, and the provision of minor repair services. Typical uses include automobile filling or service stations.

AUTO WRECKING YARD - Property where motor vehicles or parts thereof, are maintained outdoors in an unlicensed, wrecked, dismantled, disassembled, altered, and/or non-running condition, or maintained in a structure used for wrecking or storing of such motor vehicles or parts thereof for a period exceeding 120 days. Auto wrecking yard shall not include the incidental storage of inoperable or disabled vehicles in conjunction with the operation of an auto or equipment repair service or fleet storage yard. Auto wrecking yards must be licensed by or comply with regulations of the State Department of Motor Vehicles and the County Uniform Fire Code.

AUXILIARY - A use or alteration of a structure or land which provides help or is directly associated with the conduct of the primary use of the property. An auxiliary use or structure is located on-site, is temporary in nature, and is to be removed when a particular practice or function has been completed.

BASE FLOOD - The flood having a one percent chance of being equalled or exceeded in any given year. Designation on FIRM maps always include the letters A or V.

BASEMENT - That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. For floodplain management purposes, means an area of the building having its floor subgrade (below ground level) on all sides.

BED AND BREAKFAST - Uses and facilities accessory and subordinate to residential dwellings that provide traveler room and board for a fee on a daily or weekly room rental basis. Each such facility shall not accommodate more than ten travelers at any one time, nor shall a party's length of stay exceed fourteen consecutive days.

BUILDING AND GARDEN SALES - Retail sales directed to contractors and home owners offering materials and supplies for construction and home improvement such as lumber and hardware supplies, fixtures, garden supplies and nursery stock. Typical uses include lumber yards, plumbing and electrical stores, paint and hardware stores, and plant nurseries.

BUILDING HEIGHT - The vertical distance from the grade to the highest point of the roof. For the purpose of determining the height limits of all airport hazard zones set forth in the Land Development Code and shown on the Airport Hazard Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

BUILDING SETBACK LINE - The minimum distance required between the property line of a lot or parcel of land and any point of the vertical wall of a building or structure, exclusive of those architectural features permitted to extend into yards or open spaces.

CAMPGROUND - A parcel or tract of land maintained, intended, or used for the purpose of supplying temporary or overnight living accommodations to the public by providing designated areas for the placement of trailers, tents, buses, automobiles or sleeping bags, and may include buildings to provide services to the patrons, such as, restrooms, bathing, laundry, and commissary facilities. Campgrounds may be either public or private.

CARPORT - A permanently roofed structure with not more than 3 enclosed sides, used or intended to be used for automobile shelter and storage.

CEMETERY - Land used or intended to be used for the burial or interment of the dead and dedicated for cemetery purposes. Cemetery includes columbaria, crematories and mausoleums and may include mortuaries and chapels when operated in conjunction with and within the boundary of such cemetery.

CHURCH - Facilities for public religious assembly such as customarily occurs in churches, synagogues and temples, but does not include parochial schools.

CLASS I STREAMS - Waters which are significant for domestic use, angling, water dependent recreation or the spawning, rearing or migration of game fish, and includes the water itself, any vegetation, aquatic life, habitats, and the beds and banks below the normal high water level which may contain water, whether or not water is actually present.

COLLECTOR STREET - Streets which serve internal traffic movement within an area such as a subdivision, and connect to arterial streets.

COMMERCIAL AGRICULTURAL ENTERPRISE - Consists of farm operations which will contribute in a substantial way to the area's existing agricultural economy, help maintain agricultural processors and established farm markets, not only what is produced, but how much and how it is marketed shall be considered.

COMMERCIAL STABLE - Commercial operations for the boarding, breeding, raising and training of horses or llamas, but does not include an animal defined or classified as a specialty animal.

COMMUNITY ASSEMBLY - Recreational, social, fraternal multipurpose facilities or buildings owned and operated by a governmental agency or nonprofit community organization.

COMMUNITY PARK - Uses and facilities for public recreation within a neighborhood or community setting.

COMPATIBLE - Capable of existing harmoniously, in agreement, or that which can be mixed without seriously interfering with another activity or use.

CONDOMINIUM - An estate in real estate property consisting of an individual interest in common in a portion of real property together with a separate interest in space for residential, commercial, industrial or other purposes. A condominium may include, in addition, a separate interest in other portions of such real property.

CUL-DE-SAC - A short street with one end open to traffic and terminated at the other end by a vehicle turnaround.

CULTURAL SERVICES - Governmental or nonprofit facilities for the preservation and exhibition of objects of permanent interest in one or more of the arts, sciences or humanities. Typical uses include exhibition halls, galleries, museums, libraries.

CULTURED CHRISTMAS TREE - Means trees: (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil; (b) Of a species for which the Department of Revenue requires a "Report of Christmas Trees Harvested" for purposes of ad valorem taxation; (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and (d) Evidencing of periodic maintenance of practices of sheering for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

CURRENT EMPLOYMENT FOR FARM USE - (A) Farmland, the operation or use of which is subject to any farm-related government program; (B) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (C) Land planted in orchards or other perennial, other than land specified in subparagraph (D) of this paragraph, prior to maturity; (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years; (E) Wasteland in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use; (F) Land under buildings supporting accepted farm practices; (G) Water impoundments lying in or adjacent to and in common ownership with farm use land; (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specifically valued at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use; (I) Land lying idle for no more than one year where the absence of farming activity is due to the illness of

the farmer or member of the farmers immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such injury results in death; and (J) Any land described under ORS 32.267(1)(3).

CUSTOM MANUFACTURING - Establishments and uses primarily engaged in on-site production of goods involving hand tools and minor mechanical means, with incidental direct sales of products produced on-site to members of the general public.

DATE OF CREATION AND EXISTENCE - When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfiguration means any change in the boundary of the lot, parcel or tract.

DESTINATION RESORTS - A self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. A destination resort must meet minimum standards of development established by statute.

DEVELOP - To bring about growth or availability, 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 to access.

DEVELOPMENT - The act, process or result of developing.

DEVELOPMENT PERMIT - Any approval required under this code for the purpose of developing property, including but not limited to site plan approval, temporary use permit, conditional use permit, partition or subdivision approval, planned unit development or mobile home park approval.

DISPOSAL SITE - Land and facilities used for the disposal, handling, or transfer of, or resource recovery from solid waste, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by public or by a solid waste collection service and composting plants; the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete, or other similar non-decomposable material unless the site is used by the public either directly or through a solid waste collection service; or a site licensed pursuant to ORS 481.345.

DUST SENSITIVE USE - Real property normally used as a residence, school, church, hospital or similar use. Property used in industrial or agricultural activities is not "dust sensitive" unless it meets the above criteria in more than an incidental manner.

DUPLEX - Residential uses involving two attached, common wall dwelling units for ownership, lease or rental on the same lot or parcel.

DWELLING UNIT - 1 or more rooms in a building or portion thereof, designed, intended to be used, or used for occupancy by 1 family for living and sleeping quarters and containing only 1 kitchen.

EASEMENT - A grant of the right to use a portion of land for specific purposes.

EMERGENCY SERVICES - Facilities and services which are devoted to public health and safety, including but not limited to fire houses and police stations.

ENHANCEMENT - An action which results in a long-term improvement of existing functional characteristics and processes that are not the result of a creation or restoration action.

ENTERTAINMENT FACILITIES - Establishments or places primarily engaged in the indoor provision of cultural, entertainment or other events to spectators such as theaters or concert halls, and excluding those types of entertainment related facilities classified as extensive impact use types.

ESEE - This acronym means the "economic, social, environmental and energy consequences" as defined in OAR 660-16-005, that might result from prohibiting, restricting, or fully allowing a "conflicting" use. A conflicting use is one which negatively impact or be negatively impacted by the Goal 5 resource.

ESSENTIAL SERVICES - Facilities and services which are necessary, accessory and subordinate to the principle land use or development, and involve only minor structures such as pipelines, powerlines and poles, distribution feeders, and meter boxes.

EXPLORATION - For mining purposes, includes all activities conducted on or beneath the surface of the earth for the purpose of determining the presence, location, extent, grade or economic viability of a deposit. "Exploration" does not include prospecting or chemical processing of minerals.

EXPLOSIVE AND HAZARDOUS MATERIAL STORAGE - Storage of any quantity of materials possessing an explosive, corrosive, noxious, toxic nature that represents potential danger to the public unless dealt with in a qualified, professional manner.

EXTENSIVE IMPACT SERVICES AND UTILITIES - Any public or private facilities, services and utilities which may have a substantial impact on surrounding land uses. Typical uses include, but are not limited to: airports, detention and correction institutions, fairgrounds, disposal sites, incinerators, commercial power generating facilities, sports arenas and stadiums, outdoor theaters and amphitheaters, vehicular raceways, electrical transmission towers over 200 feet in height, commercial communication towers over 100 feet in height, natural gas or petroleum transmission pipelines.

FARM EQUIPMENT SALES/RENTAL/SERVICES - Establishments for the wholesale and retail sale, lease, rental, service, and incidental storage of farm and agricultural equipment. Typical uses include farm implement and equipment dealers.

FARM UNIT - A single farm unit may consist of any number of contiguous parcels or tax lots, including parcels or tax lots separated only by a road or highway, which are managed jointly as a single farm unit in a given area.

FARM USE - Means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops, or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees or the dairying and sale of dairy products or any other agricultural or horticultural use or animal husbandry, the stabling of training of equines or any combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for human and animal use and disposal by marketing or otherwise. Farm use includes any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming. "Farm use" also includes the propagation, cultivation, maintenance, and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3) or land described in ORS 321.267(1)(e).

FINAL DECISION - The date when the final written order for a decision reached under procedures prescribed by this code is mailed to affected or interested persons.

FLEET STORAGE - The temporary storage of operable motor vehicles for the purpose of regular business operations such as bus or delivery truck parking, heavy equipment storage yards, or for operations such as private tow-away and impound lots.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters; (2) The unusual and rapid accumulation of runoff of surface waters from any source; (3) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined above 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.

FLOOD FRINGE - The area of the floodplain lying outside of the floodway, but subject to periodic inundation from flooding.

FLOOD INSURANCE RATE MAP (FIRM) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOOD PLAIN OR FLOOD-PRONE AREA - Means any land area susceptible to being inundated by water from any source.

FLOOD PLAIN MANAGEMENT - Means the operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and land development codes.

FLOOD PROOFING - Means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate 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 one foot.

FLOOR AREA - The total horizontal area of all floors of a building measured from the exterior surface of the outside walls including all floors below ground level.

FOOD AND BEVERAGE SALES - Retail sales of groceries, beverages and household items. Typical uses include grocery stores, convenience stores, and bakeries.

FOOD AND BEVERAGE SERVICE - Establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premise consumption. Typical uses include restaurants, cafes, fast food outlets including drive-through or drive-in establishments, and taverns.

FOREST OPERATION - Any commercial activity relating to the growing or harvesting of any forest tree species.

FOREST PRACTICE - Any operation conducted on or pertaining to forest land, including but not limited to reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals, and the disposal of slash.

FOREST USE - The employment of land for the production of trees and the processing of forest products; for open space, buffers from noise, and visual separation of conflicting uses; watershed protection and wildlife and fisheries habitat; soil protection from wind and water; maintenance of clean air and water; outdoor recreational activities and related support services and wilderness values compatible with these uses; and grazing land for livestock.

FREEWAY - A highway devoted to traffic movement with little or no land service function. Freeways are characterized by some degree of access control with few, if any, intersections at grade.

GARAGE - Any building, with not less than 3 enclosed sides, which is used or intended to be used for automobile shelter or storage. When fronting on a dedicated street or alley, such building shall have a door or doors.

GENERAL MANUFACTURING - Establishments, operations and uses engaged in the manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of materials.

GENERAL MERCHANDISE SALES - Large scale establishments engaged in retail sales of a variety of home and personal items. Typical uses include department stores, variety stores, discount department stores, and showroom/catalog stores.

GEOHERMAL RESOURCE - The natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gasses, and steam, in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substances.

GROUND LEVEL - The average level of the finished ground surface surrounding a building, measured at the center of all walls of the building.

HEAVY EQUIPMENT REPAIRS - Repair of motor vehicles such as aircraft, heavy-duty and commercial trucks, and construction equipment, as well as the sale, installation, and servicing of equipment and parts together with body repairs. Typical uses include truck repair shops or motor freight maintenance operations.

HEAVY EQUIPMENT SALES/RENTALS/SERVICE - Establishments for the wholesale and retail sale, lease, rental, service, and incidental storage of heavy and commercial trucks, heavy construction equipment and aircraft. Typical uses include truck sales dealers or heavy construction equipment dealers.

HEAVY INDUSTRIAL - Establishments, operations and uses engaged in the primary manufacturing and processing of raw materials and which may produce and omit objectionable odors or noises. Typical uses include saw mills, pulp and paper mills, concrete or asphalt batch plants, or steel and metal fabrication.

HIGH-VALUE FARMLAND - Land in a tract composed predominantly (51% or more) of soils that, at the time the dwelling is approved for the tract are:

- A. Irrigated and classified prime, unique, Class I or Class II; or
- B. Not irrigated and classified prime, unique, Class I or Class II; or
- C. Shown to have grown specific perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1994. For the purposes of this section, "specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, and Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.

HISTORICAL RESOURCES - Those districts, sites, buildings, structures and artifacts which have a relationship to events or conditions of the human past.

HOME DAY CARE - A State-licensed facility that provides care to more than twelve children in the home of the day care provider, including a day nursery, nursery school, or similar operation, but not including facilities primarily for education or training in a specific subject such as athletics, dance, drama, music or religion; or a facility that is operated by a school district or governmental agency.

HOME FURNISHINGS AND APPLIANCES - Retail establishments engaged in the sale of home furnishings such as furniture and appliances, floor coverings, fireplaces, and spas.

HOME OCCUPATION - Home occupation refers to an occupation or enterprise carried on within a dwelling or accessory building for the financial gain by a member of the immediate family residing within the dwelling. The occupation must be ACCESSORY to the primary use of the home as a residence. Typical home occupations are professional services or crafts such as dressmaking, tutoring, music lessons, etc. Accessory uses shall not require internal or external modifications to the dwelling or accessory building or require the use of machinery, tools or equipment not associated with residential use.

HOSPITAL - An institution providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care of the sick or injured.

HOTEL/MOTEL - Lodging services involving the provision of room and/or board on the premises.

IMPROVEMENTS - Physical facilities and infrastructure, including but not limited to curbs, gutters, sidewalks, street lights, street signs, roadbed, road surface, storm drains and appurtenances, fire hydrants, sanitary sewers and appurtenances, and underground utilities.

INDOOR SPORTS AND RECREATION - Establishments or places primarily engaged in the provision of sports or recreation by and for participants; spectators are typically incidental and on a nonrecurring basis. Typical uses include bowling alleys, skating rinks, firearm and archery ranges, sports and racket clubs.

IRRIGATED - Watered by artificial or controlled means such as sprinklers, furrows, ditches or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider.

KENNEL - A facility:

- A. In which dogs are given training for which a fee is charged;
- B. Operated, not for profit, and intended to provide temporary care for lost, stray or abandoned animals;
- C. In which dogs which are licensed under County kennel licensing regulations are kept for breeding or sale; or
- D. Which is a business for the purpose of boarding and/or sale of dogs.
- E. Any lot or premises on which 5 or more dogs, at least 4 months of age are kept, boarded or trained.

LANDSCAPING - The planning and maintenance of some combination of trees, shrubs, vines, ground covers, flowers or lawns. In addition, the combination or design may include natural features such as rock and stone and structural features, including but not limited to fountains, reflecting pools, art works, screens, walls, fences and benches.

LAND USE DECISION - A decision or determination that concerns the adoption, amendment or application of the Statewide Planning Goals, a Comprehensive Plan provision or a Land Development Code provision. "Land Use Decision" does not include a decision or determination made under land use standards that do not require judgment, or a decision or determination on a subdivision or land partition located within an urban growth boundary where the decision is consistent with clear and object standards, or a decision on a building permit which does not require interpretation or the exercise of factual, policy or legal judgment.

LARGE ANIMAL VETERINARY SERVICES - Professional services primarily engaged in treating large animals such as cattle, horses, sheep, goats, pigs and llamas in connection with farm operations.

LOCAL STREET - Streets which provide access to individual adjacent lots, and connect to a collector street.

LOT - A unit of land that is created by a subdivision of land, except that when used in conjunction with other terms, such as "lot area" or "lot depth," lot may refer to both a parcel as well as a lot as defined here.

LOT AREA - The total area included within the lot lines of a lot or parcel of land.

LOT, CORNER - A lot or parcel of land situated at the intersection of 2 or more streets and/or highways, which streets or highways have an angle of intersection, measured within said lot or parcel of land, of not more than 135 degrees.

LOT DEPTH - The distance between the mid points of the front and rear lot lines.

LOT, FLAG - A unit of land whose main body is connected to a street, road, or easement with access to a street or road by a narrow strip of land.

LOT LINE, FRONT - The lot line separating the lot from the street or in the case of a corner lot, a line separating the lot from the street on which the development or contemplated development will face.

LOT LINE, REAR - A lot line which is opposite and most distant from the front lot line. For a triangular shaped lot, the rear lot line shall mean a line having a length of not less than 10 feet within the lot which is parallel to the front lot line, or parallel to the chord of a curved front lot line, and at the maximum distance from the front lot line.

LOT LINE, SIDE - Any lot boundary line which is not a front lot line or a rear lot line.

LOT, SUBSTANDARD - A lot whose area, width or depth is less than that required by the zone in which it is located.

LOT, DOUBLE FRONTAGE - An interior lot having a frontage on 2 streets, roads or highways.

LOT WIDTH - The distance between the side lot lines measured at right angles to the side lot lines measured at the front lot line.

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 code.

MAJOR HIGHWAY - A principle travel route around or between cities or communities with controlled at-grade intersections.

MANUFACTURED DWELLING - Defined under ORS 446.003(25) (a):

- A. Residential Trailer, 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.
- B. Mobile Home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in affect at the time of construction.
- C. Manufactured Home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

MEDICAL SERVICES - Private or public facilities for the provision of health care, treatment or rehabilitation of patients, either on and outpatient or residential basis. Uses may include necessary and accessory administrative, professional, maintenance, and transportation services. Typical uses include hospitals, clinics, and residential care facilities for more than 15 individuals.

MINERALS - Soil, coal, clay, stone, sand, gravel, metallic ore and any other solid material or substance excavated for commercial, industrial or construction use from natural deposits.

MINI-STORAGE FACILITY - OUTDOORS - A business consisting of one or more structures which are divided into separate, enclosed units with individual accesses which are then rented, leased or sold to other entities for the primary purpose of storing goods or materials.

MINING - All or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, unswayed road construction or other unswayed construction, or non-surface impacts of underground mines.

MITIGATION - The minimizing or offsetting of impacts by the provision of on or off-site improvement or compensation which benefits impacted property owners, resources, and the public interest. Mitigation measures include, but are not limited to, the provision of additional fish and wildlife habitat, conservation easements, on- or off-site screening and buffering, compensation for the maintenance of existing off-site screening, fees in lieu of improvements, and similar arrangements which are agreed to in writing by the affected parties, and which relate to and are necessitated by a surface mining development or operation.

MOBILE HOME PARK - Any place where four or more manufactured dwellings as defined in ORS 446.003 and Article 11 of the Klamath County Land Development Code are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of the facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile Home Park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction by ordinance.

MULTIPLE FAMILY DWELLING - Residential uses involving three or more attached, common wall dwelling units for individual ownership, lease or rental on the same lot or parcel. Typical uses include apartments, townhouses and condominiums.

NECESSARY - A use or structure that will contribute substantially to the effective and efficient primary use of the property.

NEW CONSTRUCTION - Means structures for which the start of construction commenced on or after the effective date of a flood plain management (land development code) adopted by a community and includes any subsequent improvements to such structures.

NONPRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance. It also means a runway for which a nonprecision approach is planned and is so indicated on an FAA approved airport layout plan; a military service's approved military airport layout plan; any other FAA planning document, or military service's military airport planning document.

NUISANCE - Anything that interferes with the use or enjoyment of property, endangers personal or public health or safety, or is offensive to the senses.

OIL AND GAS - Crude petroleum oil and all other hydrocarbons which are produced in liquid or by ordinary production methods, and all other natural gas and hydrocarbons that were originally in a gaseous phase in the reservoir.

OREGON FOREST PRACTICES ACT - Oregon Revised Statutes 527.610 to 527.730 and 527.990

OUTDOOR ADVERTISING SIGN - A sign which advertises goods, products or services which are not sold, manufactured or distributed on or from the premises on which the sign is located, or facilities not located on the premises on which the sign is located.

OVERBURDEN - Earth or rock that lies above a natural deposit of a mineral as defined in Article 11 of the Klamath County Land Development Code.

OWNER - The individual, firm, association, syndicate, partnership or corporation having proprietary interest in real property.

PARCEL - A unit of land created by a partition in compliance with all applicable planning, zoning and partitioning regulations. "Parcel" does not include a unit of land created solely to establish a separate tax lot or tax account.

PARKING SERVICES - Private or public facilities for temporary parking of automobiles in parking garages or lots and may involve a fee.

PARKING SPACE - A readily accessible area, not including driveways, ramps, loading or work areas, maintained exclusively for the parking of 1 motor vehicle.

PARTITION - To divide land into 2 or 3 parcels of land within a calendar year, but does not include: a division of land resulting from a lien foreclosure, foreclosure of a recorded contract for sale of real property or the creation of cemetery lots; or 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 land development ordinance; or a sale or grant by a person to a public agency or public body for state highway, county road or other right-of-way purposes provide that such road or right-of-way complies with the Comprehensive Plan and ORS 215.283(2)(p) to (r).

PARTITION PLAT - A final map and other writing containing all the descriptions, locations, specification, provisions and information concerning a major or minor land partition.

PATIO - A roofed area permanently open on not less than 3 sides and used solely for outdoor living.

PERSON - Any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, district, political subdivision, foreign country, or any other group or combination acting as a unit.

PERSONAL SERVICES - Commercial establishments primarily engaged in the provision of support services to other business, or services of a personal or nonprofessional nature. Business activity may be conducted on the premises or off-premise. Typical uses include barber and beauty shops, shoe repair, office maintenance services, health fitness studios, photographers, film processing shops, funeral and mortuary services, travel agencies, laundry and dry cleaning establishments, secretarial services.

PERSONAL USE AIRPORT - An airstrip or helicopter pad including associated hangar, maintenance and service facilities restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip.

PLANNED UNIT DEVELOPMENT - A development based on a comprehensive and complete design or plan identifying all uses of the land for the development.

POLLUTION - A violation or threatened violation of applicable state or federal environmental quality statutes, rules and standards.

PRACTICABLE - That which may be done, practiced or accomplished, or that which is performable, feasible or possible.

PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA-approved airport layout plan; any other FAA planning document, or military service's military airport planning document.

PRIMARY PROCESSING OF FOREST PRODUCTS - The use of a portable chipper or stud mill or other similar method of initial treatment of a forest product in order to enable its shipment to market.

PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevations of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

PROCESSING - For mining purposes includes, but is not limited to crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and Portland cement concrete.

PROFESSIONAL OFFICES - Commercial office related activities primarily related to professional, executive, management, or administrative services typically directed to the public and conducted on the premises. Typical uses include doctor and dentist offices, small animal veterinary services, legal offices, real estate and related services, financial services, banks, research laboratories and development firms.

PROPERTY LINE - A property line shall be a division line between two units of land which are in separate ownership.

PROPERTY LINE ADJUSTMENT - A relocation of the division line between abutting units of land which are in separate ownership.

PUBLIC ROAD - Public road shall mean (a) Any road officially established for the use of the public by the Board of Commissioners under procedures authorized in the Oregon Revised Statutes; (b) Any road established by a good and sufficient deed, properly executed forever dedicating the land and granting such public road easement, which deed has been, or is, accepted by the Board of Commissioners and placed on record; or (c) Any road dedicated to the use of the public for road purposes by a final plat of a subdivision, which has been approved and accepted by the Board of Commissioners and placed on record.

PUBLIC UTILITY - Any corporation, including municipal or quasi-municipal corporation, service district, company, individual, or association that owns or operates any plant or equipment.

- A. For the conveyance of telegraph or telephone messages, with or without wires;
- B. For the transportation of water, gas, or petroleum products by pipeline;
- C. For the production, transmission, delivery of furnishing of heat, light, water, or electricity;
- D. For the transmission and delivery of television pictures and sound by cables;
- E. For the transportation of persons or property by street railroads or other street transportation or common carriers;
- F. For the treatment and disposal of sewage waste; or
- G. For the disposal of storm water runoff.

QUARRY - Any place on a lot or parcel of land where dirt, soil, sand, gravel, rock, clay, decomposed granite, or other similar material is removed by excavation or otherwise. Quarry shall include mining operations, including washing, crushing, screening, and temporary storage, for the removal of ores, precious stones, or other solid minerals.

QUASI-JUDICIAL - A decision made by a review body by applying existing law and policy to specific situations and evidence (although not necessarily just facts that can be objectively measured) in order to reach decisions that involve discretionary judgement.

RAMADA - A structure having a roof extending over a manufactured dwelling which may also extend over a patio or parking space for motor vehicles and is used principally for protection from sun, rain and snow.

RECLAMATION - The employment in a surface mining operation of procedures designed to minimize, as much as practical, the disruption of the surface mining operation and to provide for the rehabilitation of any such surface resources adversely affected by such mining operations through the rehabilitation of plant cover, soil stability, water resource and other measures appropriate to the subsequent beneficial use of mined and reclaimed land.

RECREATIONAL VEHICLE (RV) - A vacation trailer or other unit with or without motive power which was designed for human occupancy, has sleeping, cooking and plumbing facilities, and has a gross floor space of less than 400 square feet. Typical uses include camping trailers, motor homes, bus conversions, travel trailers, or any vehicle converted for use or partial use as a recreational vehicle. The unit is identified as a recreational vehicle by the manufacturer or converter.

RECREATIONAL VEHICLE (RV) PARK - A lot or parcel upon which 2 or more recreational vehicle sites are located, established or maintained for recreational vehicles for the general public as temporary living quarters for recreational or vacation purposes.

REPAIR SERVICE - Establishments primarily engaged in the provision of repair services for durable and nondurable goods, exclusive of automotive and related equipment repairs. Typical uses include appliance repair shops, alteration and tailor shops, instrument repair shops.

RESIDENTIAL CARE FACILITY - A facility licensed by or under the authority of the Oregon Department of Human Resources which provides residential care alone or in conjunction with treatment or training or combination thereof for 6 to 15 individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the facility.

RESIDENTIAL CARE HOME - A home licensed by or under the authority of the Oregon Department of Human Resources which provides residential care alone or in conjunction with treatment or training for 5 or fewer residents who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the facility.

RESORT - Lodging and food services provided for the traveling public, with particular emphasis on outdoor amenities and recreation opportunities.

RESTORATION - The revitalization, returning or replacing of original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, which have been diminished or lost by past alterations, activities or catastrophic events.

RETAIL SALES - Commercial businesses primarily engaged in the sale of commonly used goods and general merchandise directly to the public. Typical uses include bicycle shops, book stores, camera shops, clothing and shoes stores, florists, stereo and record stores, toy stores, video rentals.

REVIEW BODY - The Klamath County Planning Director or designee, the Klamath County Hearings Officer, the Klamath County Planning Commission or the Klamath County Board of Commissioners.

RIGHT-OF-WAY - The area between boundary lines of a street, road or other easement.

RIPARIAN - Of, pertaining to, or situated on the edge of the bank of a river or other body of water.

ROAD - A public or private way which is created to provide ingress and egress for persons to one or more lots parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress in conjunction with the use of such land for a forestry, mining, or agricultural purpose means the primary, but not the casual or incidental use of land for this purpose.

RUNWAY 7-25 - A Visual Utility Runway located at the City of Klamath Falls Airport/Kingsley Field, aligned in an east-west direction and designated as a primary runway.

RUNWAY 14 - A Nonprecision Instrument Runway located at the City of Klamath Falls Airport/Kingsley Field, aligned in a north-south direction and designated as a crosswind runway.

RUNWAY 32 - A Precision Instrument Runway located at the City of Klamath Falls Airport/Kingsley Field, aligned in a northwest direction and designated as a primary runway.

RURAL LAND - Rural lands are those which are outside the urban growth boundary and are: (a) Non-urban agricultural, forest or open space lands, or (b) Other lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

RURAL COMMUNITY - Rural communities are nearly identical in function as rural service centers. Rural communities, however, have both community sewer and water systems which allow for greater development densities (one dwelling unit per 5,000 square feet).

RURAL SERVICE CENTER - An unincorporated industrial and/or convenience-commercial and residential center of a nature and size only as required to serve the needs of the surrounding rural lands. Typically, rural service centers are isolated, rather compact and located at junctions of principal rural roads or at other strategic locations. The absence of key public facilities (community sewer and water systems) limit development densities to a maximum of one dwelling unit per acre.

SCHOOL - Public, private and parochial preschool, elementary, junior and senior high schools, colleges and trade schools together with incidental administrative, maintenance and recreational facilities.

SCRAP OPERATIONS - Operations primarily engaged in dismantling, storage, processing or reprocessing of used or waste materials with the intent of reuse. Typical uses include junk yards or salvage yards.

SIGN - Any method of display or part thereof, for visual communication that includes any announcement, declaration, demonstration, display, illustration or insignia which is used to advertise or promote the interest of any person, business, group or enterprise and includes accessory signs and outdoor advertising. "Sign" does not include official notices issued by any court or public body or officer, notices posted by any public officer in performance of a public duty, or by any person giving legal notice, directional warning or information structure required or authorized by law or by federal, state or county authority or permanent memorial or historical signs, plaques or markers.

SINGLE FAMILY DWELLING - Residential uses involving site built dwelling units for individual ownership, lease or rental on an individual lot or parcel. Single-family dwelling includes "modular" or "prefabricated" homes not meeting the definition of manufactured dwelling.

SITE PLAN - A plan other than a building plan showing the physical arrangement, design or use of a lot or parcel of land, buildings or structures indicating uses, form, dimensions and other pertinent data.

STOCKYARDS AND ANIMAL SALES - Temporary keeping of transient livestock for auction, market, sale, shipping or slaughter.

STREET - A public or private way which is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land.

STREET PLUG OR RESERVE STRIP - A narrow strip of land controlling access to a street or half street, title to which is dedicated to the County and the disposal of which lands shall be placed within the jurisdiction of the Board of County Commissioners for disposal under conditions approved by the appropriate review body.

STRUCTURAL ALTERATIONS - Any change in the supporting members of a building, such as bearing walls, column, beam or guides, floor or ceiling joists, roof rafters, roof diagrams, roof trusses foundations, piles, retaining walls or similar.

STRUCTURE - Anything constructed or installed or portable, which requires a fixed location on the ground, or is attached to something having a fixed location on the ground. For Floodplain management purposes, it means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

SUBDIVISION - The division of an area or tract of land into 4 or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year.

SUBDIVISION PLAT - A final map and other writing containing all the description, locations, specifications, dedications, provisions and information concerning a subdivision.

SUBSTANTIAL DAMAGE - For floodplain management purposes, means 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 - For floodplain management purposes, means 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. The term includes structures which have incurred "substantial damage" regardless of the actual repair work being performed. The term does not include: (1) Any project for the 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 an "historic structure" provided that the alteration will not preclude the structure's continued designation as an "historic structure."

TRACT - One or more contiguous lots or parcels in the same ownership. Contiguous means connected in such a manner as to form a single block of land

TRUCK STOP - Highway related service establishments providing motor fuel, service, towing and food service.

URBAN AREA - All lands located within an acknowledged Urban Growth Boundary for the town and cities of Bonanza, Chiloquin, Klamath Falls, Malin and Merrill.

URBAN LAND - Areas which include an incorporated city and may also include lands adjacent to and outside the incorporated city limits, and may also have concentrations of people who generally reside and work in the area and have supporting public facilities and services.

USE - The primary or principal activity, structure, or facility occurring upon land.

WETLAND - 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 support a prevalence of vegetation typically adapted for life in saturated soil conditions.

WAREHOUSING, STORAGE AND DISTRIBUTION: HEAVY - Open-air storage, distribution and handling of materials and equipment. Excludes mini-storage facilities. Typical uses include monument or stone yards, open storage yards, petroleum storage facilities.

WAREHOUSING, STORAGE AND DISTRIBUTION: LIGHT - Wholesaling, storage, distribution and warehouse services of materials and equipment within enclosed structures. Excludes mini-storage facilities. Typical uses include distributors, storage warehouses, moving and storage firms.

WORKER RESIDENTIAL - Residential uses necessary and accessory to, in conjunction with, and subordinate to the primary agricultural, forestry, commercial or industrial use of property.

YARD - An open space on a lot or parcel of land, other than a court, unoccupied and unobstructed by a building from the ground upward.

YARD, FRONT - A yard extending across the full width of the lot or parcel of land on which a building or structure is located and situated between the front lot line and the nearest point of the building or structure.

YARD, REAR - A yard extending across the full width of the lot or parcel of land on which a building or structure is located and situated between the rear lot line and the nearest point of a building or structure.

YARD, SIDE - A yard extending from the front yard, or the front lot line where no front yard is required to the rear yard or to the rear lot line where no rear yard is required. The width of a side yard is the distance between each side lot line and the nearest point of a building or structure.

ZONE, APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL - The area under the approach, transitional, horizontal, and conical surfaces defined in Part 77, Objects Affecting Navigable Air Space, Federal Aviation Regulations, published by the Federal Aviation Administration (FAA) of the U.S. Department of Transportation.

ARTICLE 12 ADMINISTRATION

12.010 - SCOPE AND COMPLIANCE

- A. Proposed Uses. The provisions of this code are applicable to all lots, parcels, buildings, structures and uses of land created, established, constructed or altered subsequent to the adoption of this code unless specifically exempted.
- B. Existing Uses. The provisions of this code are not retroactive in their effect on a use of land lawfully established on the date of adoption of this code, unless review of an application for the alteration, intensification, expansion or modification of an existing use requires a discretionary decision to determine if the proposal is consistent with this code. All development permits granted pursuant to the provisions of duly enacted ordinances shall remain in effect and shall be subject to all the conditions and provisions of the original approval, unless otherwise revoked pursuant to provisions of this code.

12.020 - CONSISTENCY WITH PLANS AND LAWS

- A. Actions initiated under this code shall be consistent with the Klamath County Comprehensive Plan and with applicable county, state and federal laws and regulations.
- B. The rights granted by any development permit or building permit pursuant to any ordinances repealed by this code shall not be affected by such repeal, however, such permit or approval shall be maintained in accordance with the provisions of this code.
- C. Any use established or conducted, or any building or structure existing in violation of any duly enacted ordinance upon the effective date of this code, shall not be deemed to have acquired status of rights of a nonconforming classification by reason of the adoption of this code or any provisions thereof. To the extent that such use, building or structure was in violation of such ordinance, statute or law, or in violation of this code, such shall be deemed a continuing violation.
- D. Any use, activity, building or structure found to be noncompliant, incompatible, or inconsistent with the Klamath County Comprehensive Plan or this code shall be considered a nuisance.

12.030 - OFFICIAL ZONING MAPS

Land use zones defined in this code are denoted on the Official Zoning Map (or maps) of Klamath County and are adopted as a part of this code and any other zoning map or maps denoting any type of zoning are declared null and void and are superseded by the Official Zoning Map (or maps) of Klamath County.

12.040 - UNCERTAINTIES OF ZONE BOUNDARIES

Where uncertainties exist as to boundaries of any zone shown upon the Official Zoning Map (or maps) of Klamath County, the following provisions shall apply:

- A. Where boundaries are indicated as approximately following lot lines, rights-of-way of highways, streets, alleys, roads, canals, railroads, or contours and the like, such lines shall be construed to be boundaries.
- B. In the case of unsubdivided property where a zone boundary divides a lot or parcel of land, the location of such boundary which is not indicated by dimension or legal description shall be determined by the Planning Director in accordance with the Type II Administrative Review Procedure.
- C. Where a public highway, street, or alley or any portion thereof is officially vacated or abandoned, the area comprising such vacated highway, street, or alley shall have applied thereto the same zone as that of the property to which it reverts. Existing or functioning highway and road right-of-ways and areas used primarily for automobile and truck transportation shall be deemed to permit the continued use as such, as well as other uses supportive of the primary use.
- D. Railroad rights-or-way and areas used solely for the purpose of accommodating track, signals and other operative devices and the movement or rolling stock shall be deemed to be zoned to permit the continued use as such, as well as other uses supportive of the primary use.
- E. Easements or land areas used solely for electric power line and poles, telephone lines and poles and gas transmission lines shall be deemed to be zoned to permit the continued use of such.
- F. Upon application, all contiguous lands under one ownership and used as of the effective date of the code in conjunction with a higher use shall be zoned with the higher use. The application shall be reviewed as a zone correction pursuant to Article 49.

12.050 - FEES REQUIRED

Any application for a land use or development decision shall be accompanied by a fee when prescribed by this code, the amount of which fee shall be adopted by resolution of the Board of Commissioners.

12.060 - RULES OF INTERPRETATION

A. Effect of Provisions

1. **Minimum Requirements** - The regulations and standards set forth in the code are to be considered minimum requirements, which are binding upon all persons and bodies charged with administering or enforcing this code.
2. **Effect Upon Private Agreements** - It is not intended that these regulations are to interfere with or abrogate or annul any easements, covenants or other agreement between parties. When those regulations impose a greater restriction upon the use of land that are imposed or required by other ordinances, rules, or regulations, these regulation shall control.

B. Language

1. **Construction** - When used in this code, the words "shall," or "will" are always mandatory and not discretionary. The words "should" or "may" are permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural, and the plural the singular.
2. **Time of Day** - Whenever a certain hour or time of day is specified in this code, or any permit, condition of approval or notice issued or given as set forth in this code, such hour shall be standard time or daylight savings time, whichever is in current use in the County.
3. **Computation of Time** - Time deadlines in this code shall be computed by excluding the first day and including the last day. If the last day is Saturday, Sunday or other legal holiday, the act must be performed on the next working day. "Day" shall mean calendar day unless otherwise specified.

4. Rounding of Quantities - Whenever this code requires consideration of distances, numbers of dwelling units, parking spaces or other aspects of development or the physical environment expressed in numerical quantities which are fractions of whole numbers, such numbers are to be rounded to the next highest whole number when the fraction is .5 or more, and to the next lowest whole number when the fraction is less than .5.
5. "Filing" or "submitted" for the purposes of this code shall mean that any required documents have been received by the Planning Department by any deadline required by this code, order or condition of approval.

12.070 - CLASSIFICATION OF USES

- A. Intent - A land use, activity, building or structure that is not enumerated or otherwise defined by this code may be classified, interpreted, or defined without amendment to the language of this code.
- B. Procedure
 1. The Planning Director or any other person may initiate an action to have a use classified consistent with this code.
 2. Persons seeking a classification shall submit a statement to the Planning Director setting forth the need for the determination along with factual information relative to the functional, land use requirements, similarity to other uses. A site plan consistent with Section 41.060 shall be submitted.
 3. A request for a classification shall be accompanied by the fee set by resolution by the Board of County Commissioners.
 4. A request for a classification shall be reviewed according to the Type II Administrative Review procedure. The Planning Director or his/her designee may refer the action to the Hearings Officer for a determination or may require that the determination be addressed as a legislative amendment to this code.
- C. Criteria - A request for a classification shall be reviewed against the following criteria:
 1. The use, activity, building or structure has characteristics most like another use presently enumerated or defined by this code;

2. The use, activity, building or structure has functional characteristics similar to another use presently enumerated or defined by this code; and
3. The use, activity, building or structure has land use requirements similar to another use presently enumerated or defined by this code;
4. The use, activity, building or structure will not be incompatible with other uses, activities, buildings or structures already enumerated or defined by this code.

D. Effect of Classification

1. No classification, interpretation or definition made under this section shall be inconsistent with Oregon law, either by statute, rule or legal interpretation.
2. Any use, activity, building or structure may be allowed on the property in question in the same manner as a use enumerated in this code which was determined to approximate the proposal.
3. No classification, interpretation or definition shall apply to any other property than to that specifically requested.

**ARTICLE 13
NONCONFORMING LOTS, USES, AND
STRUCTURES**

13.010 - DEFINITIONS

As used in this article, the following definitions shall be used:

- A. Nonconforming Lot or Parcel: Lots or parcels legally created prior to November 15, 1990 and not meeting the minimum lot area, width, or access requirements of this code.
- B. Nonconforming Use: A use lawfully established prior to November 15, 1990 and which does not conform to the use requirements of this code.
- C. Nonconforming structures: A building, structure, or portion thereof which lawfully existed prior to July 1, 1990 and which does not conform to the requirements of this code. Such structures may be nonconforming as to height, setback or similar requirements of the zone.
- D. Compliance: Possession of all necessary development permits consistent with the requirements of this code.
- E. Repair: To fix or restore a structure to its original state after damage.
- F. Alteration: Alteration includes any change, modification, or addition to a structure or its use.
- G. In-Kind-Replacement: The replacement of a structure, or the resumption of a use, with a structure or use that results in no greater noncompliance than that being replaced.

13.020 - NONCONFORMING LOTS AND PARCELS

- A. A lawfully created nonconforming lot or parcel, as defined by this code, shall retain that status until the lot or parcel is made conforming. Such a nonconforming lot or parcel shall be entitled to the same rights that such a lot or parcel would otherwise have, but shall meet development requirements of this code.
- B. Lots or parcels may become nonconforming as a result of changes in zoning, but nonconforming lots or parcels shall not be created through the granting of a variance, conditional use &2permit, or other development permit.

- C. Any lot or parcel which contains more than one single family dwelling may be divided into separate lots or parcels if the criteria enumerated in this subsection are satisfied. Nonconforming lots or parcels created pursuant to this subsection shall meet access requirements of this code, and shall maintain the maximum feasible setback and area requirements of the zone in which the property is located.
1. The lot or parcel was legally created and contained more than one legally established single-family dwelling prior to November 15, 1990; and
 2. The dwellings do not constitute a mobile home park as defined in this code; and
 3. The subject property is not planned and zoned for farm or forestry use, or if so planned and zoned, the requirements for land division specified in the respective zone are met.

13.030 - NONCONFORMING USES

Nonconforming uses are uses which are out of compliance with the land use zones set forth in Chapter 50 of the Land Development Code. Nonconforming uses in existence as of November 15, 1990, may continue (including a change of zone or occupancy) subject to the following provisions:

- A. When a nonconforming use is interrupted or abandoned for a period of one year, the use shall not be resumed. After any such interruption or abandonment, the use of the site must conform to all applicable requirements of this code. "Abandonment", as used in this section, refers to the cessation of operation;
- B. If the level of activity of a nonconforming use is decreased, it shall not be permitted to increase to its original level;
- C. No change of a nonconforming use or a structure associated with a nonconforming use shall be permitted which would result in utilization of greater land area, physical enlargement of a structure, additional traffic or employees, or any other increase or change that would result in increased noncompliance with this code or greater impact on adjacent and surrounding land uses.
- D. Alteration or in-kind replacement of a conforming structure associated with a nonconforming use may be allowed if the provisions of Article 44 and the applicable zone are satisfied.

13.040 - NONCONFORMING STRUCTURES

Nonconforming structures are structures which are out of compliance with development standards set forth in Chapters 60 or 70 of the Land Development Code. Nonconforming structures in existence as of July 1, 1990, may continue (including a change of ownership or occupancy) subject to the following provisions:

- A. Repairs to a nonconforming structure must not materially change the use or cause the structure to be in greater nonconformance with this Code. Repairs shall be reviewed under a Type II Administrative Review Procedure.
- B. Alteration or in-kind replacement of a nonconforming structure must not materially change the use or cause the structure to be in greater nonconformance with this Code. Alterations and replacement shall be reviewed under a Type III Administrative Review.
- C. Once structures are brought into conformance with this Code, repairs and alterations may not be undertaken that would cause the structure to once again be nonconforming.
- D. When a nonconforming structure is removed from a parcel for a period of one year, any use or structure on the site must conform to all applicable requirements of this Code.

13.050 - DAMAGED OR DESTROYED USES AND STRUCTURES

- A. Restoration or replacement of a nonconforming use or structure destroyed by fire, casualty or other natural disaster shall be permitted in the same location and manner provided that the work commences within 1 year.
- B. Restoration or replacement of a destroyed nonconforming use or structure not commenced within 1 year shall comply with this code.
- C. Replacement of uses or structures destroyed or damaged 50 percent or more of the market value of the improvements or structure shall comply with Article 59 as applicable.

ARTICLE 14 ENFORCEMENT

14.010 - PURPOSE

This article establishes procedures for enforcement of this code. The enforcement procedures set forth are intended to ensure due process of law for alleged violations.

14.020 - ENFORCEMENT RESPONSIBILITY

The responsibility for the enforcement of the provisions of the Land Development Code are assigned as follows:

- A. County Sheriff - It is the duty of the County Sheriff and of all officers of the County otherwise charged by law to enforce this code and all its provisions.
- B. Code Enforcement Officer - The Planning Director or his/her designee shall act as the code Enforcement Officer. The code Enforcement Officer has the following responsibilities and powers in the enforcement of this code.
 - 1. To review with affected individuals the provisions of this code through initiation of administrative hearings or other methods to obtain voluntary compliance with its provisions.
 - 2. To issue citations for violations of applicable ordinances.
 - 3. To initiate all necessary proceedings to forfeit bond or cash deposits.
 - 4. To initiate proceedings to revoke approvals granted under this code.

14.030 - CITATION

The code Enforcement Officer may issue a citation either to appear before the Hearings Officer or to the Klamath County District Court pursuant to Klamath County Code Chapter 800 to any person who violates any of the provisions of applicable ordinances. Penalties for violations shall be in accordance with Section 14.120 and/or Klamath County Code Chapter 800.

14.040 - REVOCATION OF APPROVAL OR SECURITY

- A. The Code Enforcement Officer may initiate proceedings by citation to revoke the approval of any permit or land use approval issued pursuant to this code in any case where a use of land has been established or conducted in a manner which violates or fails to observe the provisions of this code or a condition of approval.
- B. The Code Enforcement Officer may initiate procedures to forfeit all or a portion of a bond, cash deposit, or other performance security.

14.050 - PROCEDURES

- A. Alleged violators shall be notified in writing at least two times within 30 days prior to a citation for an enforcement hearing by certified mail, postage prepaid, return receipt requested to the owner of the affected property.
- B. The Code Enforcement Officer shall notify the violator by citation of intention to enforce or revoke at least 10 days prior to an Enforcement Hearing. Such citation shall contain the following:
 - 1. The heading reading, "Notice of Enforcement Hearing."
 - 2. A list of the provisions of this code and/or conditions violated and the means to correct such violation(s), if any.
 - 3. The date, time and place of the enforcement hearing.
 - 4. The required penalties for noncompliance.
 - 5. A requirement that the individual appear and show cause why the provisions of the ordinance should not be enforced.
- C. The Code Enforcement Officer shall notify the person posting the bond or cash deposit of the intention to cause forfeiture of the bond or deposit at least 20 days prior to a forfeiture hearing. Such notice shall contain the following:
 - 1. The heading reading, "Notice of Forfeiture Hearing."
 - 2. The reasons for seeking forfeiture and the remedial action required by the person posting the bond or deposit.

3. The date, time and place of the forfeiture hearing.
4. The required penalties for noncompliance.

14.060 - ENFORCEMENT HEARINGS

Hearings conducted for the purpose of code Enforcement, revocation of approval or the forfeiture of bonds are to be conducted as follows:

- A. Review Body - Hearings shall be held before the Klamath County Hearings Officer or alternatively, concurrent jurisdiction with District Court or Justice Court per Klamath County Code Chapter 800.
- B. Conduct of Hearing - The Hearings Officer shall conduct an Enforcement Hearing in accordance with Article 24.
 1. The Hearing Officer shall hear testimony and consider other evidence concerning the conditions constituting cause to enforce this code, revoke approval, or forfeit a bond or other security.
 2. Respondents to enforcement actions may be present at such hearing, may be represented by a person of his/her choice and may present testimony.
 3. The hearing need not be conducted according to technical rules relating to evidence and witnesses, and may be continued.
 4. The Hearings Officer shall deliberate upon the evidence and make findings to support any action which the Hearings Officer is empowered to take by this code, including, but not limited to enforcement of this code and other applicable Ordinances by issuing cease and desist orders, revoking approvals or granting bond forfeitures. Thereafter, the Hearing Officer shall issue an order within 15 days following the enforcement hearing.

14.070 - SERVICE OF CITATION

- A. Any notice required by the provisions of this article is to be given by the Code Enforcement Officer.
- B. A copy of the citation shall either be served personally or by mail, postage prepaid, certified mail, return receipt requested, to the owner of the affected premises as shown on the last tax assessment role. If no address can be found or is known to the Code Enforcement Officer, then the citation shall be mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive the citation does not affect the validity of any proceedings taken hereunder.

14.080 - RELEASE OF CITATION

Where a citation has been served pursuant to Section 14.030 and the Hearing Officer has determined that the owner of an affected premises has corrected the condition which was the basis for initiation of enforcement action, the code Enforcement Officer shall issue a release of the first citation.

14.090 - INTERFERENCE PROHIBITED

No person shall hinder, interfere with, or impede the code Enforcement Officer in the performance of duties assigned by this code.

14.100 - APPEALS

An order of the Hearings Officer may be appealed in accordance with procedures set forth in Article 33.

14.110 - PROHIBITIONS

No person, firm, corporation or other entity shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of this code and other applicable ordinances, or an order of a Klamath County Hearings Officer pursuant to Section 14.060.

14.120 - PENALTIES

Any person, firm, corporation or other entity who has been found to have violated any of the provisions of this code shall be punished by a fine not exceeding \$100 for each day of violation where the violation is a continuing one but such fine may not exceed \$1,000 or a fine of \$500 where the violation is not a continuing one. District Court and Justice Court shall have concurrent jurisdiction over prosecutions for violations of this code.

14.130 - CIVIL RELIEF

When a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered, or used, or any land is or is proposed to be used in violation of this code, the County Commissioners, the District Attorney or any person whose interest in real property within the County is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent temporarily or permanently enjoin, abate, or remove the unlawful location, maintenance, repair, alteration, or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings under ORS 22.010, the person shall furnish undertakings as provided under ORS 32.010 to 32.060.

ARTICLE 15

IMPROVEMENT ASSURANCES

15.010 - PURPOSE

The purpose of performance agreements is to ensure that improvements or actions required by this code are made, and that neither the County nor other affected property owners will such costs.

15.020 - IMPROVEMENTS

- A. The County Engineer may specify and require road improvements or repairs, infrastructure improvements or repairs, or other site improvements or repairs to be installed prior to final approval of any development, and may require that applicants or developers enter into a performance agreement with the County for completion of required improvements or repairs.
- B. The Planning Director or review body may specify site improvements to be installed or other actions required by this code, order or condition of approval to be completed, and may require that applicants or developers enter into a performance agreement with the County for completion of improvements or performance of a required action.

15.030 - PERFORMANCE AGREEMENT

- A. The Planning Director or County Engineer may enter into an agreement, with security, allowing the applicant to install improvements or repairs over a period of time not to exceed 2 years from the time of filing a final plat, and may attach specific performance conditions to such agreement;
- B. The Planning Director or County Engineer may enter into an agreement, with security, allowing the applicant to install required improvements or perform an action required by this code within a specified time period, and may attach specific performance conditions to such agreement;
- C. A bond, or other security acceptable to the Planning Director or County Engineer, shall accompany any performance agreement. The bond or other security shall be one of the following:

1. A bond, or other security acceptable to the Planning Director or County Engineer, shall accompany any performance agreement. The bond or other security shall be one of the following:
 2. Cash or certified check;
 3. Time deposit certificate payable to Klamath County;
 4. Savings account assignment to Klamath County;
 5. An irrevocable letter of credit in favor of Klamath County from a financial institution authorized to do business in the State of Oregon, and in a form acceptable to Klamath County.
- D. The Planning Director or County Engineer may grant special time extensions to a performance agreement, and attach conditions to any special time extension.

15.040 - EXECUTION OF PERFORMANCE AGREEMENT

- A. Assurance of full and faithful performance of an improvement agreement shall be for a sum determined by the Planning Director or County Engineer as sufficient to cover the cost of the improvements or repairs, including related engineering, legal, and incidental expenses.
- B. In the event the applicant fails to carry out all provisions of the agreement, the County shall:
 1. Call on the surety company for full and faithful performance; or
 2. Use the deposit or letter of credit to complete the work.
- C. If the amount of the bond, deposit, or letter of credit exceeds the cost of completing the work, the County shall release the remainder to the rightful claimant.
- D. If the amount of the bond, deposit, or letter of credit is less than the cost of completing the work, the applicant shall be liable for the difference and, upon demand, shall pay such liability to the County.
- E. If the County completes the work necessary to satisfy any requirement of this code or condition of approval and assesses the cost to other parties, those parties may enforce the performance agreement as third party beneficiaries.

CHAPTER 20
REVIEW PROCEDURES

ARTICLE 20
BASIC PROVISIONS

20.010 - PURPOSE OF REVIEW PROCEDURES

The purpose of this chapter is to establish uniform procedures for reviewing proposals and applications and for making decisions on matters pertaining to the use and development of lands within Klamath County. It is the intent of this chapter to provide Review Procedures ensuring that the amount of private and public resources devoted to reaching a particular decision is commensurate with its complexity and potential impact. These procedures are designed to encourage public familiarity with and understanding of how land decisions are reached, increase the overall speed by which land use decisions are reached.

20.020 - TYPES OF REVIEW PROCEDURES

All reviewing bodies shall be governed by the Comprehensive Plan policies. In order to achieve the purposes set forth above, the following procedures are established:

- A. Pre-application Conference Procedure
- B. Administrative Review Procedure
- C. Hearings Officer Review Procedure
- D. Planning Commission Review Procedure
- E. Board of County Commissioners Review Procedure

ARTICLE 21

PRE-APPLICATION CONFERENCE PROCEDURE

21.010 - PURPOSE

The purpose of the pre-application conference is to acquaint potential applicants with the procedures and requirements for filing, processing, and reviewing a development permit governed by this code in an informal fashion prior to submission of an application. Pre-application conferences shall take place prior to the filing of an application.

21.020 - SCHEDULING

At the time an inquiry into a development permit is directed to the Planning Department, a meeting may be scheduled at the discretion of the Planning Director or his/her designee for a time mutually acceptable to the applicant and planning staff. Failure to conduct a pre-application conference shall not prohibit the applicant from submitting an application.

21.030 - CONTENT

During the pre-application conference, the following issues may be discussed, as appropriate:

- A. Requirements for filing an application including application forms, fees, and the submission of factual documentation about the proposal;
- B. Procedural requirements for review and/or hearing the proposal;
- C. Substantive review criteria embodied in the Comprehensive Plan and Land Development Code;
- D. Opportunities and constraints involved with the proposal resulting from policies and regulations contained in the Comprehensive Plan and Land Development Code; and

21.040 - NOTICE, HEARING AND APPEAL

No notice, hearing or appeals shall be provided. The discussions of a pre-application conference shall not be binding on any party.

ARTICLE 22 ADMINISTRATIVE REVIEW PROCEDURE

22.010 - PURPOSE

The purpose of the Administrative Review Procedure is to provide for the ministerial review of certain change of land use and development proposals, and to provide for the expeditious review of actions involving limited discretionary judgment for which notice is required by Oregon law. The change of land use or development proposals reviewed under this procedure generally have minimal impact on adjacent lands or persons.

22.020 - RULES OF PROCEDURE

- A. The Planning Department shall be governed by Chapter 30 of this Code for the conduct of administrative reviews. Chapter 30 shall be available upon request to all individuals.
- B. Chapter 30 shall guarantee to all parties the opportunity to be heard, to present evidence, to have a record developed, and to have a decision rendered incorporating findings of fact and based on conclusions of law supported by substantial evidence in the whole record.

22.030 - TYPE I REVIEW

- A. Public Hearing and Notice. Type I Review shall be conducted without notice or a public hearing.
- B. Review and Decision.
 - 1. The Planning Director or his/her designee shall review the application within 10 days of receipt of a complete application and determine its compliance with applicable provisions of this code.
 - 2. An authorized signature showing compliance or non-compliance shall constitute the final decision.
 - 3. The Planning Director, at his/her discretion, may refer review of the application to the Type II or III Review procedure, or to an appropriate review body for a full quasi-judicial hearing.

C. Appeal. A decision reached under the Type I Review procedure may be appealed to the Board of County Commissioners within 7 days of actual notice of the decision in accordance with procedures set forth in Article 33.

22.040 - TYPE II REVIEW

A. Public Hearing and Notice.

1. Type II Review shall be conducted without a public hearing.
2. Written notice of the decision shall be mailed within 5 days after the review is conducted in accordance with Article 32.

B. Review and Decision.

1. The Planning Director or his/her designee shall review the application within 10 days of receipt of a complete application and determine its compliance with applicable provisions of this Code.
2. In accordance with Section 31.120(A), the Planning Director or his/her designee shall reduce a decision to writing within 10 working days of receipt of a complete application.
3. The Planning Director, at his/her discretion, or if requested by a person demonstrably affected by the proposed action, may refer review of the application to the Type III Review procedure, or to an appropriate review body for a full quasi-judicial hearing.

C. Appeal. A decision reached under the Type II Review procedure may be appealed to the Board of County Commissioners within 7 days of the mailing of notification of the decision as set forth in Article 33.

22.050 - TYPE III REVIEW

A. Public Hearing and Notice.

1. Type III Review shall be conducted without a public hearing.
2. Notice shall be provided prior to the review in accordance with Article 32.

B. Review and Decision.

1. The Planning Director or his/her designee shall review the application within 10 days of receipt of a complete application and determine its compliance with applicable provisions of this Code.
2. In accordance with Section 31.120, the Planning Director shall reduce a decision to writing within 15 days.
3. The Planning Director, at his/her discretion or if requested by a person receiving notice or otherwise demonstrably affected by the proposed action, may refer review of the application to an appropriate review body for a full quasi-judicial hearing.

C. Appeal. A decision reached under the Type III Review procedure may be appealed to the Board of County Commissioners within 7 days of the mailing of notification of the final decision as set forth in Article 33.

22.060 - REGISTRY

The Planning Director shall maintain a registry of land use decisions made within the previous 12 months without providing advance notice of the review and an opportunity for a hearing.

ARTICLE 24
HEARINGS OFFICER REVIEW PROCEDURE

24.010 - PURPOSE

The purpose of the Hearings Officer Review Procedure is to provide for the conduct of evidentiary, quasi-judicial hearings involving discretionary judgment in the application of standards and review criteria to specific factual situations. The Hearings Officer Review Procedure allows for an impartial tribunal, the opportunity to present evidence, assurance against ex parte contacts, and the means to create a record of hearings providing findings of fact and conclusions of law. The change of land use or development proposals reviewed under this procedure will have variable impacts on adjacent land and persons.

24.020 - APPOINTMENT AND DUTIES

- A. The Board of County Commissioners shall appoint the Hearings Officer to serve at the pleasure of the Board. The Hearings Officer may appoint a Deputy and such other personnel as is necessary, subject to confirmation by the Board of County Commissioners.
- B. The Hearings Officer and the Deputy Hearings Officer shall be appointed solely with regard to their qualifications for the duties of their position and shall have such training and experience as will qualify them to conduct hearings on land use matters and other duties conferred upon them.
- C. The Hearings Officer may act on behalf of the Board of County Commissioners in hearing and deciding land use matters governed by this code. The Deputy Hearings Officer shall assist the Hearings Officer in the performance of appointed duties, and shall have all the duties and powers of the Hearings Officer in the event of the absence or the inability of the Hearings Officer to act.
- D. The Hearings Officer shall review enforcement actions pursuant to Article 14.

24.030 - RULES OF PROCEDURE

- A. The Hearings Officer shall follow Chapter 30 of this Code for the conduct of hearings. Chapter 30 shall be in writing and copies shall be available upon request to all individuals at any hearing.
- B. Chapter 30 shall guarantee to all parties the opportunity to be heard, to present evidence, to have a record developed, and to have a decision rendered incorporating findings of fact and based on conclusions of law supported by substantial evidence in the whole record.

24.040 - PUBLIC HEARING AND NOTICE

- A. The Planning Director shall schedule public hearings and provide notice of Hearings Officer Review as provided by Article 31 and Article 32.
- B. At a scheduled hearing, the Hearings Officer may, upon request by the applicant, continue or reschedule a public hearing to a date and time certain. The applicant or a representative for the applicant must be present at the hearing. If no person is present to represent the applicant, the application may be denied at the discretion of the Hearings Officer. A new application would then have to be made.

24.050 - REVIEW AND DECISION

- A. Public hearings conducted by the Hearings Officer shall be called to order at the date and time specified in the public notice. The order of proceedings shall conform to Section 31.100.
- B. The Hearings Officer may, upon good cause shown by a party, continue the hearing to a date and time certain without further notice.
- C. The Hearings Officer may continue an evidentiary hearing to a date and time certain if, in his or her judgment, additional time and/or information is needed.
- D. If the Hearings Officer is not present, the hearing agenda is automatically continued to a date and time certain, to be posted on location at the time of the hearing by Planning Department staff.
- E. At the conclusion of the final evidentiary hearing, the Hearings Officer may make a decision to approve, conditionally approve, or deny the request based on review standards and criteria set forth in this code, or shall continue the matter to a date and time certain for a decision.

- F. A decision of the Hearings Officer shall incorporate findings of fact and conclusions of law based on substantial evidence in the whole record.
- G. A decision of the Hearings Officer shall not be final until it is reduced to writing in the form of a final order in accordance with Section 31.120.

24.060 - APPEAL

An order of the Hearings Officer may be appealed to the Board of County Commissioners within 7 days of its mailing as set forth in Article 33.

ARTICLE 26
PLANNING COMMISSION REVIEW PROCEDURE

26.010 - PURPOSE

The purpose of the Planning Commission Review Procedure is to provide for the conduct of hearings necessary to reach quasi-judicial decisions involving discretionary judgment in the application of standards and review criteria to factual situations, or to make legislative recommendations involving the balancing of divergent positions. The change of land use or development proposals reviewed under this procedure may have significant impacts on adjacent lands or persons, or involve policy decisions affecting a broad range of lands or persons.

26.020 - RULES OF PROCEDURE

- A. The Planning Commission shall be governed by Chapter 30 of this Code for the conduct of hearings. Chapter 30 shall be available upon request to all individuals at any hearing.
- B. Chapter 30 shall guarantee to all parties the opportunity to be heard, to present evidence, to have a record developed, and to have a decision rendered incorporating findings of fact and based on conclusions of law supported by substantial evidence in the whole record.

26.030 - PUBLIC HEARING AND NOTICE

- A. The Planning Director shall schedule public hearings and provide notice of Planning Commission Review as provided by Article 31 and Article 32.
- B. At the scheduled hearing, the Planning Commission may, upon request by the applicant, continue or reschedule a public hearing to a date and time certain. The applicant or a representative for the applicant must be present at the hearing. If no person is present to represent the applicant, the application may be denied at the discretion of the Planning Commission. A new application would then have to be made.

26.040 - REVIEW AND DECISION

- A. Public hearings conducted by the Planning Commission shall be called to order by the Chairperson at the date and time specified in the public notice. The order of proceedings shall conform to Section 31.100.
- B. The Planning Commission may continue an evidentiary hearing to a date and time certain on a matter before it, if, in its judgment, additional time is necessary to review the proposal or to receive additional information regarding the proposal.
- C. If a quorum of the Planning Commission is not present, the hearing is automatically continued to a date and time certain, to be posted on location at the time of the hearing by Planning Department staff.
- D. Quasi-judicial hearings.
 - 1. At the conclusion of the final evidentiary hearing, the Planning Commission may make its decision to approve, conditionally approve, or deny the request based on review standards and criteria set forth in this code, or shall continue the matter to a date and time certain for a decision.
 - 2. A decision of the Planning Commission shall incorporate findings of fact and conclusions of law based on substantial evidence in the whole record.
 - 3. A decision of the Planning Commission shall not be final until it is reduced to writing in the form of a final order in accordance with Section 31.120.
- E. Subdivision and Planned Unit Development Review.
 - 1. At the conclusion of the final evidentiary hearing, the Planning Commission shall make its decision based on review standards and criteria set forth in the code.
 - 2. A decision of the Planning Commission shall incorporate findings of fact and conclusions of law based on substantial evidence of the whole record.
 - 3. A decision of the Planning Commission shall not be final until it is reduced to writing in the form of a final order in accordance with Section 31.120.

E. Hearings for legislative changes to the Comprehensive Plan, Land Development Code or Zoning Map.

1. At the close of the public hearing, the Planning Commission shall make a recommendation to the Board of County Commissioners on the action before it.

26.050 - APPEAL

An order of the Planning Commission may be appealed to the Board of County Commissioners within 7 days of its mailing as set forth in Article 33.

ARTICLE 28
BOARD OF COUNTY COMMISSIONERS REVIEW PROCEDURE

28.010 - PURPOSE

The purpose of the Board of County Commissioners Review Procedure is to provide for the conduct of hearings to reach quasi-judicial decisions involving discretionary judgment in the application of standards and review criteria to factual situations, to adjudicate decisions of other review bodies, or to make legislative decisions involving the balancing of divergent positions. The change of land use or development proposals reviewed under this procedure may have significant impacts on adjacent lands or persons, or involve policy decisions affecting a broad range of lands or persons.

28.020 - RULES OF PROCEDURE

- A. The Board of County Commissioners shall be governed by Chapter 30 of this Code for the conduct of land use hearings. Chapter 30 shall be available upon request to all individuals at any hearing.
- B. Chapter 30 shall guarantee to all parties the opportunity to be heard, to present evidence, to have a record developed, and to have a decision rendered incorporating findings of fact and based on conclusions of law supported by substantial evidence in the whole record.

28.030 - PUBLIC HEARING AND NOTICE

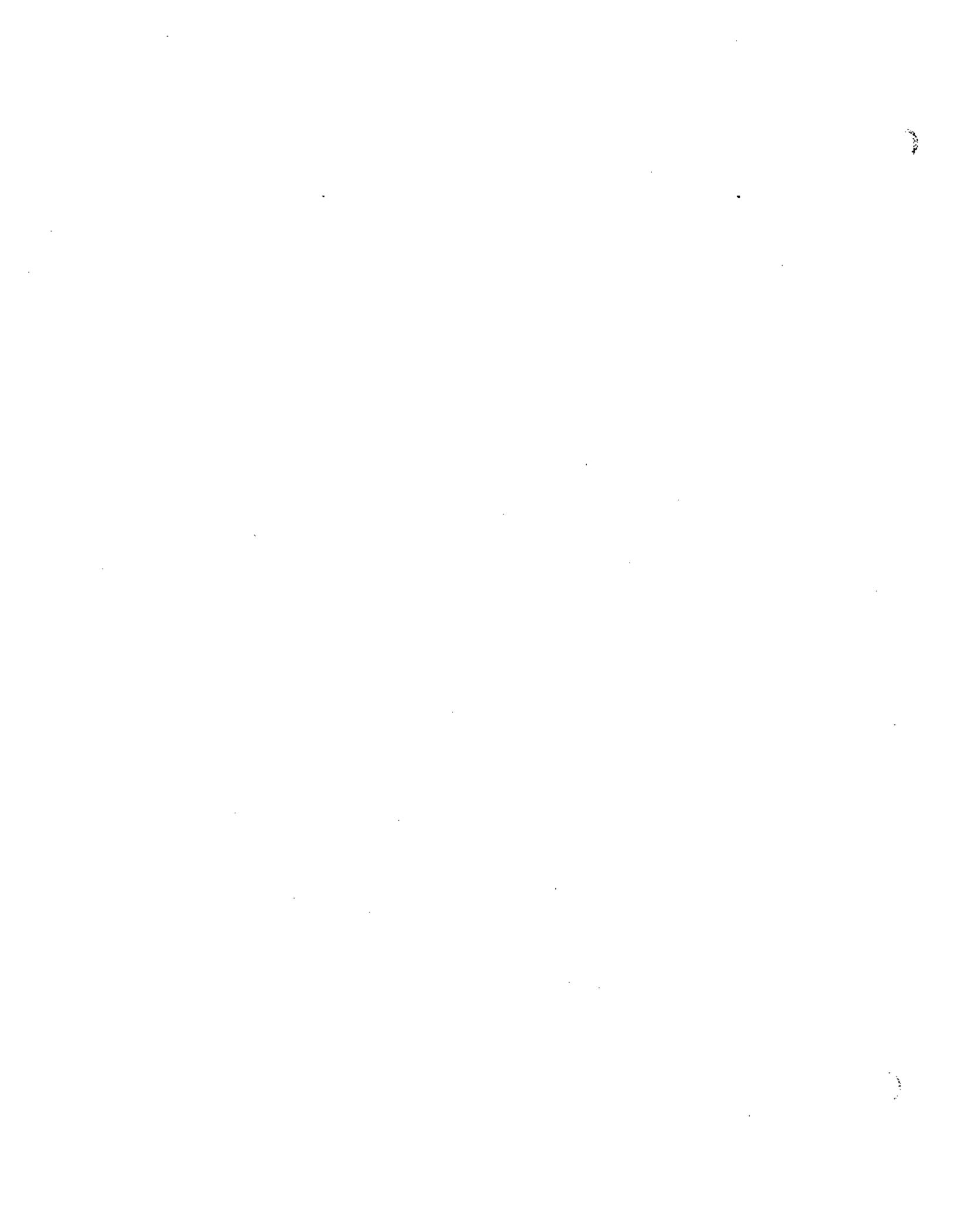
- A. The Planning Director shall schedule public hearings and provide notice of Board of County Commissioners Review as provided by Article 31 and Article 32.
- B. At the scheduled hearing, the Board of County Commissioners may, upon request by the applicant, continue or reschedule a public hearing to a date and time certain. The applicant or a representative for the applicant must be present at the hearing. If no person is present to represent the applicant, the application may be denied at the discretion of the Board of County Commissioners. A new application would then have to be made.

28.040 - REVIEW AND DECISION

- A. Public hearings conducted by the Board of County Commissioners shall be called to order by the Chairperson at the time and date specified in the public notice. The order of proceedings shall conform to Section 31.100.
- B. The Board of County Commissioners may continue an evidentiary hearing to a date and time certain on a matter before it if, in its judgment, additional time is necessary to review the proposal or to receive additional information regarding the proposal.
- C. If a quorum of the Board of Commissioners is not present, the hearing agenda is automatically continued to a date and time certain, to be posted on location at the time of the hearing by Planning Department staff.
- D. Quasi-judicial and appeal hearings
 - 1. At the conclusion of the final evidentiary hearing, the Board of County Commissioners may make its decision to approve, conditionally approve, or deny an application based on review standards and criteria set forth in this code, affirm, reverse or remand an appeal, or shall continue the matter to a date and time certain for a decision.
 - 2. A decision of the Board of County Commissioners shall incorporate findings of fact and conclusions of law based on substantial evidence in the whole record.
 - 3. A decision of the Board of County Commissioners shall not be final until it is reduced to writing in form of a final order in accordance with Section 31.120.

28.050 - APPEAL

A land use decision of the Board of County Commissioners shall be final unless appealed to the Oregon Land Use Board of Appeals as set forth in ORS 197.805 through 197.855.



CHAPTER 30
PUBLIC HEARINGS, NOTICE AND APPEAL

ARTICLE 30
BASIC PROVISIONS

30.010 - PURPOSE

The purpose of this chapter is to prescribe procedures for public hearings, public notice and the appeal of decisions reached as a result of the review procedures described in Chapter 20.

30.020 - APPLICATIONS AND STAFF REPORTS

- A. All documentation relied upon by an applicant in support of a development permit or other action governed by this code must be submitted to the Planning Department by the date of notice established by the Planning Director in advance of reviews or hearings. Review or a hearing shall not be scheduled or noticed until the application is deemed complete by the Planning Director or his/her designee.
- B. If any other evidence is submitted in support of an application before the hearing, any party shall be entitled to a continuance of the hearing. Such hearing continuance shall not be subject to the 120 day time limitation for final local action per ORS 215.428.
- C. Staff reports including proposed findings addressing applicable review criteria shall be available for public inspection:
 - 1. At least 14 days prior to any hearing involving property planned and zoned for farm or forestry use, or property subject to a comprehensive plan or zone change; or
 - 2. At least 7 days prior to any hearing involving property not planned and zoned for farm or forestry use.

ARTICLE 31

PUBLIC HEARINGS

31.010 - RESPONSIBILITY OF THE PLANNING DIRECTOR

The Planning Director shall perform the following duties pertaining to administrative reviews and public hearings:

- A. Establish and maintain a schedule of review and public hearing dates; establish and maintain a schedule of application deadlines;
- B. Refer and schedule applications to the appropriate review body following application deadlines;
- C. Conduct the correspondence of the review body;
- D. Give notice in accordance with Article 32;
- E. Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponement and continuances and a summary of action taken by the review body;
- F. Prepare and maintain minutes of public meetings conducted under this code; and
- G. Mail a copy of the final order to all parties participating in the review process or requesting a copy of the decision.

31.020 - SPECIAL HEARINGS

The Planning Director may schedule special hearings after consulting with the presiding officer of the review body in order to accommodate and promote efficient hearing agendas.

31.030 - CHALLENGES TO IMPARTIALITY

Except for hearings by the Board of County Commissioners concerning legislative amendments to the Comprehensive Plan or Land Development Code involving broad public policy, a party to a hearing or a member of a review body may challenge the impartiality of an individual to participate in the hearing and decision of the matter.

- A. A challenge shall state, by affidavit, the factual situation relating to the challenge including, but not limited to: an alleged personal bias, prejudgment, ex parte contact, or personal interest in the matter.
- B. The challenge shall be delivered to the Planning Director at least 48 hours prior to the time set for a public hearing on the matter.
- C. The Planning Director shall inform the review body's chairperson of the challenge and the person(s) at whom the challenge is directed.
- D. The review body shall deal with the challenge before proceeding with a hearing.
- E. The challenge shall be incorporated into the record of the hearing.

31.040 - DISQUALIFICATION

Except for hearings by the Board of County Commissioners concerning legislative amendments to the Comprehensive Plan or Land Development Code involving a substantial area and number of property owners or issues of broad public policy, no member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

- A. Any of the following have a direct or substantial financial interest in the proposal: the review body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is serving or has served within the previous two years, or any business which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment;
- B. The member owns property within the area entitled to receive notice of the public hearing;
- C. The member has a direct private interest in the proposal; or
- D. For any other reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

- E. Location, dimensions (including height), and use or occupancy of all existing and proposed structures on the property, including accessory structures, decks, balconies, and other structural elements;
- F. Distance from property lines to existing and proposed structures, septic tanks, drainlines, and wells;
- G. Location of water and drainage features and the flow direction of any ponds, channels, creeks, swales or other drainage facilities effecting the proposed use;
- H. Location, type, and dimensions of proposed on-site sewage disposal and water supply, if any;
- I. Location and descriptions of any topographic or developed features on the site, such as rock outcrops, excavations, etc.;
- J. Location and dimensions of all easements;
- K. Landscaping as required by Article 65;
- L. Signs as required by Article 66;
- M. Parking as required in Article 68;
- N. Vehicular access and circulation as required by Article 71;
- O. Other appropriate information that otherwise may be required by this code;
- P. Signature of applicant.

41.070 - PERFORMANCE AGREEMENT

The review body may require a performance agreement pursuant to Article 15 in order to ensure compliance with any requirements of this code or conditions of the review body.

31.080 - RIGHTS OF DISQUALIFIED MEMBER OF THE REVIEW BODY

- A. An abstaining or disqualified member of the review body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by abstaining from voting on the proposal, physically vacating the seat on the review body, and making full disclosure of his or her status and position at the time of addressing the review body.
- B. If all members of a review body abstain or are disqualified, all members present after stating their reasons for abstention or disqualification shall by so doing be re-qualified and proceed to resolve the issues.
- C. Except for hearings by the Board of Commissioners concerning either a change of zone or comprehensive plan designation which involves a substantial area and number of property owners, or an issue of broad public policy, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

31.090 - BURDEN AND NATURE OF PROOF

- A. Except for hearings by the Board of Commissioners concerning a legislative amendment to the Comprehensive Plan and Land Development Code involving a substantial area and number of persons, the burden of proof is upon the proponent to show that the proposal complies with or is consistent with the Comprehensive Plan and Land Development code.
- B. Proposals must be supported by substantial evidence in the whole record showing compliance with all applicable elements of the Comprehensive Plan and Land Development Code.
- C. The more drastic the proposed change, or the greater the impact of the proposal on other land uses or properties, the greater the burden of proof upon the proponent to show how the proposal complies with or is consistent with the Comprehensive Plan and Land Development Code.

31.100 - ORDER OF PROCEEDINGS

An order of proceedings for the conduct of a hearing will depend, in part, on the nature of the hearing. The following may be supplemented by rules of procedures.

- A. Before receiving information on the matter, the presiding officer of the hearing shall note for the record, or act on the following issues:
1. Challenges to the impartiality of any member of the review body;
 2. Conflict of interest or ex parte contacts by members of the review body;
 3. Abstentions or disqualifications of the review body;
 4. The nature of any site visit to the land or property in question by any member of the review body; and
 5. Objections to the proceedings based on jurisdictional grounds.
- B. Before receiving information on the matter, the presiding officer of the hearing shall make a statement to those in attendance that:
1. Lists the applicable review criteria of the Comprehensive Plan or Land Development Code pertinent to the hearing;
 2. States that testimony and evidence must be directed to the applicable review criteria of the Comprehensive Plan or Land Development Code pertinent to the hearing; and
 3. States that a failure to raise an issue with sufficient specificity to afford the review body or other parties an opportunity to respond to the issue may preclude future appeal based on that issue.
- C. The review body shall hear the staff report and recommendation.
- D. The review body shall open the evidentiary hearing for public testimony and submittal of evidence on the matter.
1. Testimony shall be received in a manner prescribed by the presiding officer.
 2. Unless otherwise specified all questions will be directed to the presiding officer or chairperson of the review body.
 3. Before any person testifies at a quasi-judicial hearing, that person shall establish standing in the matter as per Section 31.105.

- E. The chairperson of the review body may take official notice of information relating to the issue.
1. Provisions of state law, a Klamath County ordinance, resolution, rule or officially promulgated policy, or other public records and facts judicially noticeable by ORS Chapter 41 may be noticed by the presiding officer.
 2. A matter officially noticed need not be established by evidence and may be considered by the review body in deciding the matter.
 3. Parties requesting official notice shall do so on the record.
 4. Any matter given official notice may be rebutted.
- F. At the close of public testimony, the record shall be closed to public testimony and the submittal of evidence and the review body may discuss the issue.
- G. All evidence, testimony, deliberations, and decisions shall be made before the public, shall be recorded, and shall be made a part of the record.
- H. Unless there is a continuance pursuant to Section 30.020(B), a participant in the hearing may request that the evidentiary hearing record remain open for at least 7 days after the hearing.
- I. If a review body reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria which apply to the matter at issue.

31.105 - STANDING

Before any person testifies at a quasi-judicial hearing, that person shall establish standing in the matter before the review body. Persons must show that their interests would be adversely affected by a decision or that they are entitled to notice under the provisions of this code. The review body may take testimony from a person whose standing is taken under consideration and may make its ruling regarding standing at the time of entry of its decision.

31.110 - DECISION

- A. Following the close of the final evidentiary hearing on a matter before it, the review body may approve, conditionally approve or deny an application for a change of land use or development proposal, affirm, reverse or remand an issue on appeal, or shall continue the matter to a time and date certain for a decision. Hearings continued for a decision shall not be evidentiary hearings.
- B. A matter continued to a date and time certain for a decision shall be held within 45 days of the date the evidentiary hearing record is closed.
- C. A decision shall not become final until the review body adopts findings of fact and conclusion of law, and the decision is reduced to writing.
- D. A final decision, including local appeal, shall be made on all applications within 120 days of the date an application is deemed complete for the purposes of scheduling a public hearing pursuant to Article 32, except as provided for in ORS 215.428.

31.120 - FINAL ORDER

- A. A decision of a review body on a land use decision shall be based on findings of fact and conclusions of law supported by substantial evidence in the whole record. The Planning Director, County Counsel, or the prevailing party (if designated by the review body), shall reduce the decision to writing and prepare the final order. The final order shall include, but not be limited to:
 - 1. Nature of the application or action;
 - 2. Name of the applicant or proponent of the action;
 - 3. Legal description of the affected land;
 - 4. Applicable standards and review criteria from the Comprehensive Plan and Land Development Code upon which the decision is to be based;
 - 5. Statements of facts relevant to the situation and used by the review body in making its decision, including but not limited to:

- a. General Background: nature of the request and description of the proposed use, location of the property, plan and zone designations, history of prior actions affecting the property;
 - b. Nature of the Site: size, shape, land use, topography, soils, physical characteristics of the property, available utilities and public facilities; and
 - c. Nature of the Surrounding Area: land uses of surrounding land, physical characteristics, utilities and public facilities, other environmental and infrastructure characteristics.
- 6. Reasons supported by substantial evidence in the whole record showing how the factual situation presented addresses the standards and review criteria contained in the Comprehensive Plan and Land Development Code;
 - 7. Conclusions of law, and a decision stating the approval, conditioned approval, or denial of the matter;
 - 8. Order; and
 - 9. Conditions.
- B. A final order shall be prepared within 15 days of the decision.
 - C. Notice of the decision and a copy of the final order shall be provided via first class mail to the applicant and other persons participating in the decision or requesting notice, and shall enumerate appeal rights.
 - D. A final order shall be filed with the Board of County Commissioners, the County Clerk's Office, and the Planning Department.

31.130 - RECORD OF PROCEEDINGS

The secretary to the review body or his/her authorized representative shall be present at each hearing and shall cause the proceedings to be recorded.

- A. Testimony shall be transcribed if required for an appeal, if requested by the review body, or if requested and paid for by any other party.

- B. The review body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.
- C. The final order shall be included in the record.
- D. Any person shall have access to the record of the proceedings at reasonable times, places and circumstances. A person shall be entitled to obtain copies of the record for a reasonable cost.

ARTICLE 32

PUBLIC NOTICE

32.010 - PURPOSE

The purpose of public notice is to provide an opportunity for affected or interested persons to participate in the local land use review and decision process.

32.020 - NOTICE SCHEDULE

- A. The Planning Director shall determine the type of notice for each land use decision, and may provide additional notice, in such a way that all persons reasonably determined to be potentially affected or interested in a local land use decision receive actual notice.
- B. The notice requirements for the various types of land use and development decisions are set forth in Section 32.070.

32.030 - TYPES OF NOTICE

- A. Published Notice - Notice of a land use review or hearing requiring advance notice by this code shall be published in a newspaper of general circulation in Klamath County on 2 consecutive days not less than 20 days prior to the date of the scheduled review or hearing.
- B. Posted Notice - Notice of a land use review or hearing requiring advance notice by this code shall be posted not less than 20 days prior to the date of the scheduled review or hearing at designated locations in the Federal Post Office in Klamath Falls, the Klamath County Court house, the Klamath County Courthouse Annex, the Klamath Falls City Hall, and at other locations as determined by the Planning Director.
- C. Mailed Notice - Notice of a quasi-judicial land use review hearing or decision shall be mailed by first class mail in the following manner:
 - 1. No later than 28 days prior to the date of the scheduled review or hearing to all owners of real property within 500 feet, including rights-of-way and water bodies, of the subject property for actions involving land planned and zoned for farm or forestry use;

2. No later than 20 days prior to the date of the scheduled review or hearing:
 - a. To all owners of real property within 300 feet, including rights-of-way and water bodies, of the subject property for actions involving an exception area;
 - b. To all owners of real property within 200 feet, including rights-of-way and water bodies, or the subject property for actions wholly or partially within an Urban Growth Boundary;
 - c. To a public airport owner for a zone change if:
 - 1) The zone could permit development of a structure greater than 35 feet in height, and the property is inside the runway "approach surface" as defined by the Oregon Department of Transportation; and
 - 2) The subject property is within 5,000 feet of the side or end of a runway at the Beaver Marsh airstrip, the Chiloquin airstrip, Crescent Lake airstrip or the Malin airstrip; or
 - 3) The subject property is within 10,000 feet of the side or end of a runway at Kingsley Field.
 - d. To each mailing address for tenants of a mobile home park for a zone change involving property encompassing all or part of a mobile home park.
 - e. To all property owners affected by a legislative zone change involving a substantial area and number of property owners in accordance with ORS 215.503, subject to the availability of sufficient funds from the Land Conservation and Development Commission.
3. No later than 5 days following a decision rendered pursuant to the Type II Administrative Review Procedure to all owners of real property within 200 feet, including rights-of-way and water bodies, of the subject property.
4. Persons who wish to receive mailed notice of hearing continuances must file a request with the Planning Department. Mailed notice of hearing continuances shall be limited to those persons who request such notification in writing; all others shall rely on posted or published notices as appropriate.

- D. Ownership List - The applicant shall file with such applications a list of names, addresses, and tax lot numbers of all owners of property situated within the prescribed distance of the external boundaries of the property affected by the application. Such names, addresses, and tax lot numbers shall be those listed on the last preceding tax role of the Klamath County Assessor.

32.040 - CONTENT MAILED OF NOTICE

Mailed notice 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 Comprehensive Plan and Land Development Code that apply to the application being considered;
- 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 a failure to raise an issue in the course of the review, either in person or by letter, or failure to provide sufficient specificity to afford the review body an opportunity to respond to the issue precludes appeal based on that issue;
- F. Include the name of the Planning Department staff person to contact, and the telephone number, where additional information may be obtained;
- G. 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;
- H. State that a copy of the staff report will be available for inspection at no cost, and will be provided at reasonable cost:
1. At least 14 days in advance of a hearing involving property planned and zoned for farm or forestry use or property subject to a comprehensive plan or zone change, or
 2. At least 7 days in advance of a hearing not involving property planned and zoned for farm or forestry use.

I. Include an explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

32.050 - COST OF NOTICE

The cost of notice required by this code shall be included in the application fee.

32.060 - RECEIPT OF NOTICE

Failure of any party to receive notice shall not automatically nullify a land use decision.

32.070 - NOTICE SCHEDULE

<u>Type of Application</u>	<u>Requirement</u>
Temporary Use Permit	Mailed
Variance	Published Mailed Posted
Conditional Use Permit	Published Mailed Posted
Land Partition	Published Mailed Posted
Subdivision	Published Mailed Posted
Change of Zone Designation Quasi-judicial	Published Mailed Posted
Change of Comprehensive Plan Designation Quasi-judicial	Published Mailed Posted
Legislative Amendment Comprehensive Plan, Land Development Code and zoning map	Published Posted

ARTICLE 33 APPEAL OF DECISIONS

33.010 - PURPOSE

The purpose of this article is to establish uniform procedures for the appeal of decisions rendered pursuant to this code.

33.020 - APPEAL AUTHORITY

- A. Decisions reached under the following review procedures may be appealed to the Board of County Commissioners:
1. Administrative Review - Article 22
 2. Hearings Officer - Article 24
 3. Planning Commission - Article 26

33.030 - NOTICE OF APPEAL

Notice of intent to appeal a decision rendered under the procedures of this code shall be filed no later than 7 days following mailing of the final order. Notice shall be in the form of a signed letter, shall state the name(s) of the party or parties appealing the decision, and shall be received by Planning Department before the close of business on the seventh day. The fee established by the Board of County Commissioners shall accompany the notice of appeal.

33.040 - STATEMENT OF APPEAL

No later than 7 days following the filing of a notice of appeal pursuant to Section 33.030, the appellant shall file with the Planning Department a written statement of grounds for the appeal explaining:

- A. How the Comprehensive Plan, Klamath County Land Development Code, or applicable State law was incorrectly interpreted or applied in the decision; or
- B. What information in the record of decision was pertinent to the decision, but was not considered by the review body.

33.050 - EFFECT OF APPEAL

- A. Failure to file an appeal within the specified time or in the manner prescribed in Sections 33.030 and 33.040 shall nullify the appeal and the decision shall be final.
- B. The proper filing of an appeal shall stay the effective date of the decision until a final decision is rendered through the local appeal process.

33.060 - STANDING TO APPEAL

To have standing to appeal a decision rendered under the procedures of this code, persons or parties must have participated, either orally or in writing, in the local review process, and must show that their interests would be adversely affected by the decision.

33.070 - ACTION OF THE BOARD OF COUNTY COMMISSIONERS

- A. Appeal hearings shall be conducted in accordance with Article 31.
- B. If the Board of County Commissioners elects to overturn or modify the previous decision it shall make a finding declaring one or more of the following conditions exists:
 - 1. The Planning Director, Hearings Officer or Planning Commission did not correctly interpret the requirements of the Land Development Code, Comprehensive Plan, or applicable State law; or
 - 2. The Planning Director, Hearings Officer or Planning Commission did not consider all of the information in the record that was pertinent to the case.
- C. The Board of County Commissioners may impose any necessary conditions if overturning or modifying the previous decision results in approval of an application.
- D. If time permits pursuant to ORS 215.428, the Board of County Commissioners may refer an appeal to staff or the appropriate review body for recommendations.

- F. The Board of County Commissioners may adopt by reference the findings and conclusions previously made, may alter or delete any part of the findings, or make additional findings, and may amend or add to any conditions imposed.
- G. The Board of County Commissioners action on an appeal shall be governed by the same regulations of this code which applied to the original review body.
- H. Notice of an appeal hearing shall be given in the same manner as in the review proceeding appealed from.
- I. In the case of a tie vote of the Board of County Commissioners, the decision of the original review body shall be final.

33.080 - DE NOVO APPEAL HEARINGS

- A. Any appeal to the Board of County Commissioners of a decision for which a hearing was not conducted but for which public notice was required by Oregon law, the Board's review shall be de novo or "completely new from the start."
- B. Notice of a *de novo* appeal hearing shall be in accordance with the requirements of Article 32. All other appeals shall be limited to the record.



CHAPTER 40
APPLICATION PROCEDURES

ARTICLE 40
BASIC PROVISIONS

40.010 - PURPOSE

The purpose of this chapter is to provide standards and criteria for development permit and change of land use applications.

40.020 - TYPES OF APPLICATIONS

The types of development permit and change of land use procedures provided by this code are as follows:

- A. Site Plan Review
- B. Temporary Use Permit
- C. Variances
- D. Conditional Use Permit
- E. Minor and Major Partitions
- F. Subdivision of Land
- G. Change of Zone Designation (Quasi-judicial)
- H. Change of Comprehensive Plan/Zone Designation (Quasi-judicial)
- I. Legislative Amendment to the Klamath County Comprehensive Plan, Land Development Code or Zoning Map

ARTICLE 41

SITE PLAN REVIEW

41.010 - PURPOSE

The purpose of Site Plan Review is to ensure compliance with the provisions this code for uses and activities governed by this code.

41.020 - APPLICATION

Unless otherwise specified by this code, review of a site plan is required for:

- A. Issuance of a building permit for new construction exclusive of interior remodeling;
- B. Septic system land use compatibility;
- C. Land use decisions involved in making a determination of land use compatibility for any state or federal agency;
- D. The construction, relocation, addition, extension, occupancy or use change of structure;
- E. Any development, or change of land use;
- F. Time extension requests.

41.030 - REVIEW PROCEDURE

- A. Site Plan Review for all actions involving the application of clear and objective standards or review criteria shall be conducted according to the Type I Administrative Review Procedure.
- B. Site Plan Review for all land use decisions involving interpretation or the exercise of factual, policy or legal judgment shall be conducted according to the Type II Administrative Review Procedure.

41.040 - REVIEW CRITERIA

- A. A site plan may only be approved if it meets all applicable review standards and criteria of this code.
- B. A site plan shall be reviewed against all applicable requirements of this code.

41.050 - PROCESSING

- A. **Initiation** - An application for Site Plan Review shall be initiated by the owner, or agent of the owner, of the property for which review is sought. An agent's application shall be authorized in writing by the owner.
- B. **Filing** - An application for Site Plan Review shall be filed on forms provided by the Planning Department, and shall set forth in detail all necessary information.
- C. **Filing Fee** - An application for Site Plan Review shall be accompanied by a filing fee set by the Board of County Commissioners to defray costs incidental to the review process.
- D. **Incomplete Applications** - Applications which are found to be incomplete or inaccurate by the Planning Director or his/her designee shall be returned to the applicant within 5 days of submittal along with a statement of specific deficiencies to be corrected. The applicant shall have 30 days from the postmark date of the notice in which to submit an amended application. If the applicant fails to complete or correct the application within the time provided, the application shall be deemed complete and transmitted to the appropriate review body with a recommendation for denial.

41.060 - SITE PLAN REQUIREMENTS

Site plans shall include the following information:

- A. Tax lot number and street address;
- B. Dimensions of property, scale, and north arrow;
- C. Location, name, width and surface type of adjacent streets;
- D. Location, dimensions and surface type of existing or proposed driveways or parking areas;

- E. Location, dimensions (including height), and use or occupancy of all existing and proposed structures on the property, including accessory structures, decks, balconies, and other structural elements;
- F. Distance from property lines to existing and proposed structures, septic tanks, drainlines, and wells;
- G. Location of water and drainage features and the flow direction of any ponds, channels, creeks, swales or other drainage facilities effecting the proposed use;
- H. Location, type, and dimensions of proposed on-site sewage disposal and water supply, if any;
- I. Location and descriptions of any topographic or developed features on the site, such as rock outcrops, excavations, etc.;
- J. Location and dimensions of all easements;
- K. Landscaping as required by Article 65;
- L. Signs as required by Article 66;
- M. Parking as required in Article 68;
- N. Vehicular access and circulation as required by Article 71;
- O. Other appropriate information that otherwise may be required by this code;
- P. Signature of applicant.

41.070 - PERFORMANCE AGREEMENT

The review body may require a performance agreement pursuant to Article 15 in order to ensure compliance with any requirements of this code or conditions of the review body.

TEMPORARY USE PERMIT INFORMATION

A temporary use permit is required for uses and activities which are established for a short-term basis and will be removed after the use is terminated. The following temporary uses may be approved:

1. One manufactured home or recreational vehicle in conjunction with an existing dwelling for the term of a medical hardship suffered by the resident or a related person requiring care;
2. A manufactured home or recreational vehicle occupied during construction or development of a site;
3. A temporary construction office or labor camp;
4. Temporary or seasonal fairs or public gatherings;
5. Other uses as determined by the Planning Director.

A temporary use permit will be reviewed administratively by the Planning Director. You should schedule a pre-application conference with a member of the planning department before submitting an application. The information you submit may be the sole basis for making a decision. **BE THOROUGH WHEN DESCRIBING YOUR PROPOSAL !!**

REVIEW CRITERIA

1. The Temporary Use, its location, size design and operating characteristics will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area;
2. Hardship dwellings shall meet the following criteria:
 - a. The medical hardship is certified by a licensed physician;
 - b. The manufactured home or recreational vehicle is connected to the existing sewage disposal system except when the County Environmental Health Division determines that an existing system is inadequate and cannot be made adequate;
 - c. The manufactured home or recreational vehicle is located as close as practical to the existing primary residence;



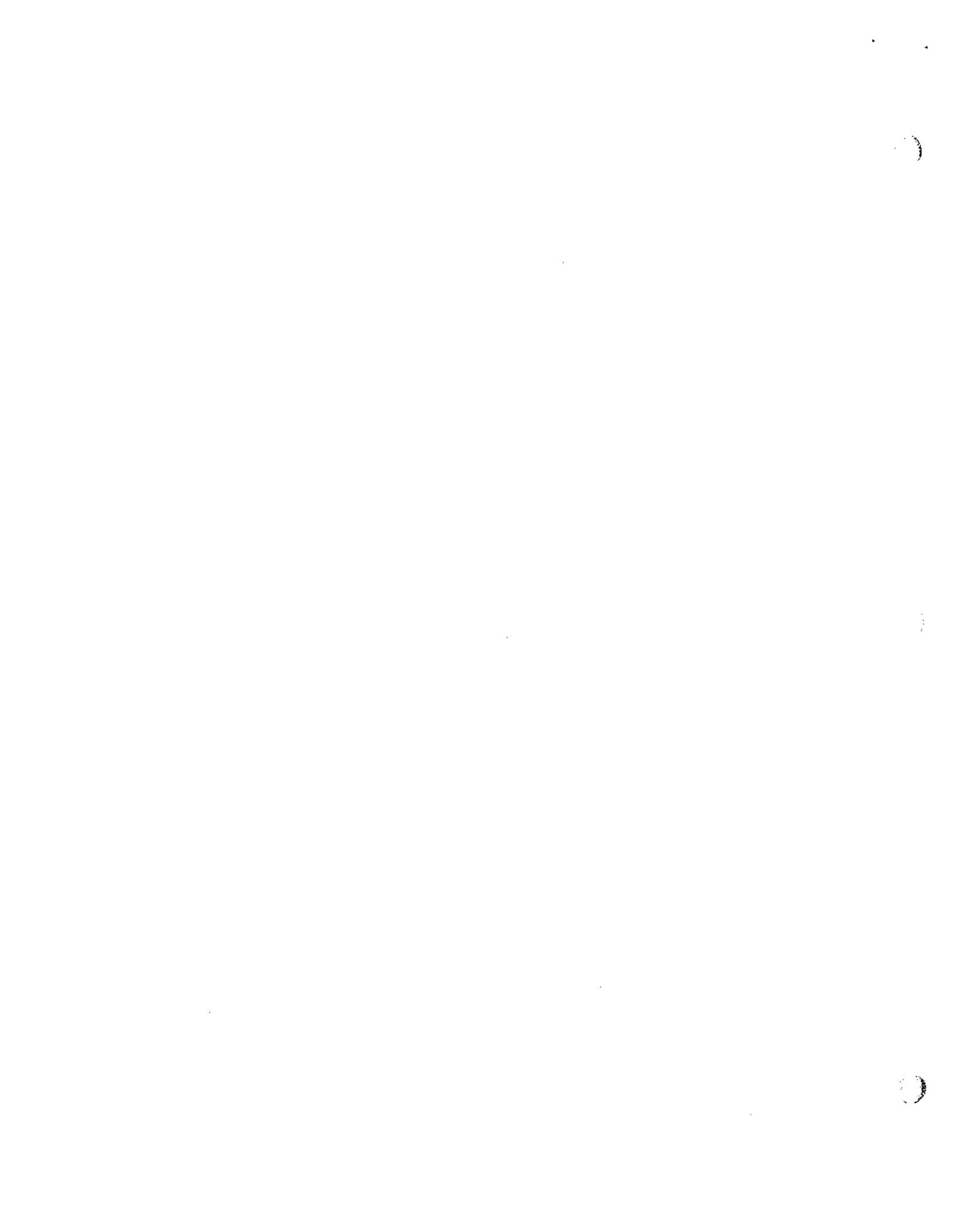
- d. The manufactured home or recreational vehicle shall be removed from the property when the hardship condition ceases.
3. Manufactured homes or recreational vehicles used temporarily during development of a site or as a temporary construction office may only be approved if a building permit for the primary development has been issued.

PROCESSING

The following information must be submitted:

1. A complete application form and site plan;
2. Filing fee;
3. List of surrounding property owners within:
 - 200 feet for proposals within an urban growth boundary
 - 300 feet for proposals outside an urban growth boundary
 - 500 feet for proposals involving farm or forest land

Temporary Use Permits are subject to annual review.



**TEMPORARY USE PERMIT
APPLICATION**

1. APPLICANT:

Name _____ Phone _____

Address _____

LEGAL LANDOWNER (if different from above):

Name _____ Phone _____

Address _____

2. SPECIFIC PROPERTY DESCRIPTION:

Section _____ Township _____ Range _____

Tax Lot Number _____

Street Address _____

Subdivision _____ Lot _____ Block _____

Legal Description _____

General Location _____

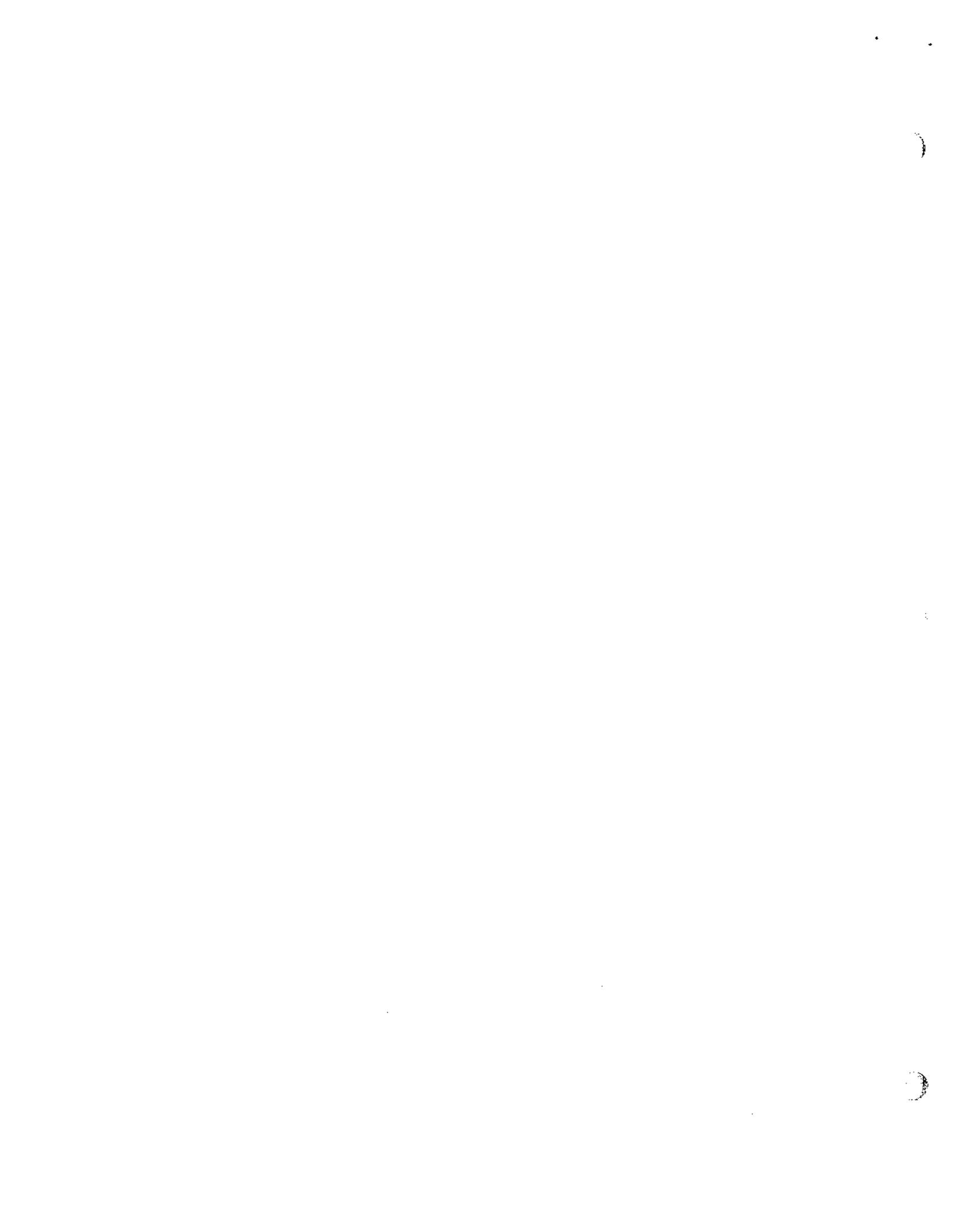
Lot or Parcel Size _____

* * * * * FOR PLANNING DEPARTMENT USE ONLY * * * * *

FILE REFERENCE NO. _____ FILE REFERENCE NAME _____

DATE RECEIVED _____ BY _____ DATE COMPLETE _____

FEE _____ RECEIPT NUMBER _____ REVIEW DATE _____



3. GENERAL PROPERTY DESCRIPTION:

Zone _____

Current Use _____

Physical Character _____

Water _____ Sewerage _____

Fire District _____

Irrigation District _____

Road Access _____

4. SURROUNDING PROPERTY:

Describe buildings and land uses on adjacent property and give their approximate distance from your property lines:



Not to be used
12/19/93
122

ARTICLE 42

TEMPORARY USE PERMIT

42.010 - PURPOSE

The purpose of the Temporary Use Permit is to provide for the establishment of uses on a short-term basis.

42.020 - REVIEW PROCEDURE

An application for a Temporary Use Permit shall be subject to the Type III Administrative Review Procedure.

42.030 - PERMITTED TEMPORARY USES

- A. One manufactured dwelling in conjunction with an existing dwelling for the term of a medical hardship suffered by the resident or an immediate relative requiring care.
- B. One recreational vehicle in conjunction with an existing dwelling for the term of a medical hardship suffered by the resident or an immediate relative requiring care.
- C. A manufactured dwelling or recreational vehicle occupied during construction or development of a site.
- D. A temporary construction office.
- E. Temporary or seasonal labor camps.
- F. Temporary or seasonal fairs or public gatherings.
- G. Other uses as determined by the Planning Director in accordance with the Type III Administrative Review Procedure.

42.040 - PROCESSING

- A. Initiation - An application for Site Plan Review shall be initiated by the owner, or agent of the owner, of the property for which review is sought. An agent's application shall be authorized in writing by the owner.

- B. Filing - An application for Site Plan Review shall be filed on forms provided by the Planning Department, and shall set forth in detail all necessary information, and shall be accompanied by a site plan drawn to the requirements of Section 41.060.
- C. Filing Fee - An application for Site Plan Review shall be accompanied by a filing fee set by the Board of County Commissioners to defray costs incidental to the review process;
- D. Incomplete Applications - Applications which are found to be incomplete or inaccurate by the Planning Director or his/her designee shall be returned to the applicant within 5 days of submittal along with a statement of specific deficiencies to be corrected. The applicant shall have 30 days from the postmark date of the notice to which to submit an amended application. If the applicant fails to complete or correct the application within the time provided, the application shall be deemed complete and transmitted to the appropriate review body with a recommendation for denial.
- E. Within 5 days of receiving an application, the Planning Director or his/her designee shall check the National Wetlands Inventory maps, located in the Planning Department, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on a site proposed for development, the Planning Director or his/her designee shall notify the Division of State Lands on a form provided. A copy of the letter shall be sent to the applicant. A final decision on the application cannot be rendered until the 30 day comment period, which begins on the day the notification letter is sent, has expired.
- F. Time Limitation - No request for a Temporary Use Permit shall be considered by a review body within a one-year period immediately following a previous denial of such request.

42.050 - REVIEW CRITERIA AND STANDARDS

- A. A Temporary Use Permit may only be approved if it meets all applicable criteria and standards of this code.
- B. A Temporary Use, its location, size design and operating characteristics will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.
- C. Hardship dwellings shall meet the following criteria:
 1. The medical hardship is certified by a licensed physician;
 2. The manufactured dwelling or recreational vehicle is connected to the existing sewage disposal system except when the County Environmental Health Division determines that an existing system is inadequate and cannot be made adequate;

3. The manufactured home or recreational vehicle is located as close as practical to the existing primary residence; and
 4. The manufactured home or recreational vehicle shall be removed from the property when the hardship condition ceases.
- D. Manufactured homes or recreational vehicles used temporarily during development of a site or as a temporary construction office may only be approved if a building permit for the primary development has been issued. The review body shall determine if the temporary residence or office is required for development of the primary use.
- E. The review body may grant a Temporary Use Permit subject to such reasonable conditions based on finding of fact that it deems necessary to ensure compliance with the Klamath County Comprehensive Plan, Land Development Code, and sound land use planning principles.

42.060 - ANNUAL REVIEW

- A. Temporary Use Permits shall be subject to annual review in accordance with the Type II Administrative Review Procedure.
- B. The Planning Director or appropriate review body shall review the temporary use against any original conditions of approval to determine continued compliance with this code or conditions of approval.
- C. The review body may revoke a Temporary Use Permit upon a finding that the temporary nature of the use has expired or that the applicant has not complied with this code or conditions of approval.

42.070 - PERFORMANCE AGREEMENT

The review body may require a performance agreement pursuant to Article 15 in order to ensure compliance with any requirements of this code or conditions of the review body.

ARTICLE 43

VARIANCES

43.010 - PURPOSE

The purpose of a Variance is to permit justifiable departures from the requirements of this code where, because of the particular physical surroundings, shape, topography, or other conditions not created by the owner of the property, the literal application would result in an undue or unnecessary hardship on the owner. It is not the purpose of a Variance to authorize a use or activity not permitted by the land use zone regulations governing the property.

43.020 - REVIEW PROCEDURE

Applications for a Variance shall be reviewed according to the Type III Administrative Review Procedure (Article 22), except as follows:

- A. An application for a Variance may be referred at the discretion of the Planning Director to the Hearings Officer for review under the Hearings Officer Review Procedure (Article 24).
- B. An application for a Variance when in conjunction with a conditional use permit shall be reviewed according to the appropriate review procedure identified in Article 44.
- C. An application for a Variance when in conjunction with a land partition or subdivision or Planned Unit Development shall be reviewed according to the appropriate review procedure for the land division or development request.

43.030 - REVIEW CRITERIA

- A. A Variance may only be approved if it meets all applicable review criteria.
- B. A Variance shall be reviewed against the following criteria:
 1. The literal enforcement of this code would result in practical difficulty or unnecessary hardship to the owner. The difficulty or hardship may arise from the property's size, shape or topography, or from the location of lawfully existing buildings or improvements;

2. The condition causing the difficulty was not created by the applicant;
 3. The granting of the Variance will not be detrimental to the use and enjoyment of adjacent properties, and will not authorize uses or activities not permitted by the land use zone regulations governing the property; and
 4. The granting of the Variance will not be contrary to the intent of this code.
- C. Conditions - The reviewing authority may grant a Variance subject to such reasonable conditions based on findings of fact as will ensure that:
1. Any departure from the requirements of this code will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity or the land use zone in which the property is located; and
 2. Conditions are necessary, in the judgment of the review authority, to protect the best interests of surrounding property or neighborhood.

43.040 - PROCESSING

Applications for a Variance shall be processed as follows:

- A. Initiation - An application for a Variance shall be initiated by the owner or agent of the owner of the property proposed as the site of the Variance. An agent's application shall be authorized in writing by the owner.
- B. Filing - An application for a Variance shall be filed on forms provided by the Planning Department, shall set forth in detail all necessary information, and shall be accompanied by a site plan drawn to the requirements of Section 41.060.
- C. Pre-application conference - An application for a Variance shall be subject to the pre-application procedures (Article 21).
- D. Filing Fee - An application for a Variance shall be accompanied by a filing fee set by the Board of County Commissioners to defray costs incidental to the review process.

- E. Incomplete Applications - Applications which are found to be incomplete or inaccurate by the Planning Director or his/her designee shall be returned to the applicant within 5 days of submittal along with a statement of specific deficiencies to be corrected. The applicant shall have 30 days from the postmark date of the notice in which to submit an amended application. If the applicant fails to complete or correct the application within the time provided, the application shall be deemed complete and transmitted to the appropriate review body with a recommendation for denial.
- F. Within 5 days of receiving an application, the Planning Director or his/her designee shall check the National Wetlands Inventory maps, located in the Planning Department, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on a site proposed for development, the Planning Director or his/her designee shall notify the Division of State Lands on a form provided. A copy of the letter shall be sent to the applicant. A final decision on the application cannot be rendered until the 30 day comment period, which begins on the day the notification letter is sent, has expired.
- G. Time Limitation - No request for a Variance shall be considered by a review body within a one-year period immediately following a previous denial of such request.

43.050 - PERFORMANCE AGREEMENT

The review body may require a performance agreement pursuant to Article 15 in order to ensure compliance with any requirements of this code or conditions of the review body.

Revised 6-5-93

ARTICLE 44

CONDITIONAL USE PERMIT

44.010 - PURPOSE

The purpose of the Conditional Use Permit is to provide a mechanism whereby uses which may be suitable only in certain locations or only if designed or operated in a particular manner may be allowed within the basic zone designation.

44.020 - REVIEW PROCEDURE

Applications for a Conditional Use Permit shall be reviewed as follows:

- A. Hearings Officer Review Procedure (Article 24)
 - 1. Conditional Use Permit applications for any use located outside the Urban Growth Boundary except for those in conjunction with a subdivision or planned unit development or;
 - 2. Extensive Impact Services and Utilities involving land within the Urban Growth Boundary.

- B. Type III Administrative Review Procedure (Article 22)

Conditional Use Permit applications for all uses within the Urban Growth Boundary except for Extensive Impact Services and Utilities involving land located within an Urban Growth Boundary and those in conjunction with a subdivision or planned unit development.

- C. Planning Commission Review Procedure (Article 26)

An application for a Conditional Use Permit in conjunction with a subdivision or planned unit development inside or outside the Urban Growth Boundary.

44.030 - REVIEW CRITERIA

- A. The use complies with policies of the Comprehensive Plan;
- B. The use is in conformance with all other required standards and criteria of this code; and
- C. The location, size, design, and operating characteristics of the proposed use will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.
- D. Conditions - The review body may grant a Conditional Use Permit subject to such reasonable conditions based on findings of fact that it deems necessary to ensure compliance with the Klamath County Comprehensive Plan, Land Development code, and sound land use planning principles.

44.040 - PROCESSING

Applications for a Conditional Use Permit shall be processed as follows:

- A. Initiation - An application for a Conditional Use Permit shall be initiated by the owner, or agent of the owner of the property proposed as the site of the conditional use. An agent's application shall be authorized in writing by the owner.
- B. Filing - An application for a Conditional Use Permit shall be filed on forms provided by the Planning Department, shall set forth in detail all necessary information, and shall be accompanied by a site plan drawn to the requirements of Section 41.060 and any other requirements of this code.
- C. Pre-application Conference - An application for a Conditional Use Permit shall be subject to the pre-application procedure (Article 21).
- D. Filing Fee - An application for a Conditional Use Permit shall be accompanied by a filing fee set by the Board of County Commissioners to defray the cost incidental to the review process.
- E. Incomplete Applications - Applications which are found to be incomplete or inaccurate by the Planning Director or his/her designee shall be returned to the applicant within 5 days of submittal along with a statement of specific deficiencies to be corrected. The applicant shall have 30 days from the postmark date of the notice in which to submit an amended application. If the applicant fails to complete or correct the application within the time provided, the application shall be deemed complete and transmitted to the appropriate review body with a recommendation for denial.
- F. Within 5 days of receiving an application, the Planning Director or his/her designee shall check the National Wetlands Inventory maps, located in the Planning Department, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on a site proposed for development, the Planning Director or his/her designee shall notify the Division of State Lands on a form provided. A copy of the letter shall be sent to the applicant. A final decision on the application cannot be rendered until the 30 day comment period, which begins on the day the notification letter is sent, has expired.
- G. Time Limitation - No request for a Conditional Use permit shall be considered by a review body within a one-year period immediately following a previous denial of such request.

44.050 - TIME LIMIT ON CONDITIONAL USE PERMIT APPROVAL

- A. A Conditional Use Permit shall be void after 2 years if no substantial development has taken place.
- B. Conditional Use Permit is considered void if the use is discontinued for a period of 1 year, except as otherwise specified in this code.
- C. Requests for an extension of time for an approved and final Conditional Use Permit shall be reviewed in accordance with the Type II Administrative Review Procedure with the same notice as provided for the original application.
- D. Requests for an extension of time based on substantial development of an approved and final Conditional Use Permit shall be reviewed against the following criteria:
 - 1. The nature of the project and original conditions;
 - 2. The acts of the property owner must arise beyond mere contemplated use or preparation (such as grading or leveling) of land, or the preparation of development plans; and
 - 3. Development is unable to occur due to circumstances beyond the control of the owner.

44.060 - PERFORMANCE AGREEMENT

The review body may require a performance agreement pursuant to Article 15 in order to ensure compliance with any requirements of this code or conditions of the review body.

ARTICLE 45 LAND PARTITION

45.010 - PURPOSE

The purpose of the land partitioning procedure is to ensure that the division of lands into parcels for subsequent use and development is conducted in an orderly manner and in compliance with this code and Oregon law.

45.020 - REVIEW PROCEDURE

- A. A land partition request and tentative partition plan shall be reviewed according to the Type III Administrative Review Procedure (Article 22).
- B. A land partition request and tentative partition plan associated with a conditional use permit for a dwelling not necessary and accessory to farm use shall be reviewed according to the Hearings Officer Review Procedure (Article 24).

45.030 - PARTITION RESTRICTIONS

No partition shall be approved within a subdivision, planned unit development, or previously approved partition unless the standards of Article 71 are met. The review body may waive requirements of Article 71 upon a finding that adequate access exists and relevant road standards are met.

45.040 - REVIEW CRITERIA

- A. A partition request may only be approved if it meets all applicable standards and review criteria.
- B. A partition request shall be reviewed against the following criteria:
 - 1. The proposed partition complies with policies of the Comprehensive Plan;
 - 2. The proposed partition is in conformance with all standards and criteria of this code and applicable state statutes;

3. The subject property is physically suitable for the type and proposed density of development and conforms to zone standards;
4. The parcels are located and laid out to properly relate to adjoining or nearby lot or parcel lines, utilities, street, or other existing or planned facilities;
5. The sewer and water facilities and existing fire protection services are adequate to serve the density of development resulting from the proposed partition;
6. The proposed partition has legal access to the property;
7. The proposed partition will not conflict with legally established easements or access within or adjacent to the parcel configuration resulting from subject property; and
8. The proposed partition will not prohibit the extension of dedicated streets or roads.

45.050 - PROCESSING

Applications for a partition shall be processed as follows:

- A. Initiation - An application for a partition shall be initiated by the owner, or agent of the owner, of the property proposed as the site of the partition. An agent's application shall be authorized in writing by the owner.
- B. Filing - An application for a partition shall be filed on forms provided by the Planning Department, shall set forth in detail all necessary information, and shall be accompanied by a tentative partition plan drawn to the requirements of Section 45.060.
- C. Filing Fee - An application for a partition shall be accompanied by a filing fee set by the Board of County Commissioners to defray costs incidental to the review process.
- D. Incomplete Applications - Applications which are found to be incomplete or inaccurate by the Planning Director or his/her designee shall be returned to the applicant within 5 days of submittal along with a statement of specific deficiencies to be corrected. The applicant shall have 30 days from the postmark date of the notice in which to submit an amended application. If the applicant fails to complete or correct the application within the time provided, the application shall be deemed complete and transmitted to the appropriate review body with a recommendation for denial.

- E. Within 5 days of receiving an application, the Planning Director or his/her designee shall check the National Wetlands Inventory maps, located in the Planning Department, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on a site proposed for development, the Planning Director or his/her designee shall notify the Division of State Lands on a form provided. A copy of the letter shall be sent to the applicant. A final decision on the application cannot be rendered until the 30 day comment period, which begins on the day the notification letter is sent, has expired.
- F. Time Limitation - No request for a partition shall be considered by a review body within a one-year period immediately following a previous denial of such request.

45.060 - TENTATIVE PARTITION PLAN REQUIREMENTS

- A. Preparation and Submission - The applicant shall cause a tentative partition plan to be prepared, together with additional information that may be required by this code to indicate the objectives of the development.
- B. Copies - The applicant shall submit to the Planning Department the original drawing or acceptable tracing, and 15 copies of the tentative partition plan.
- C. Drawing Requirements - Tentative partition plans shall be drawn on 18 inch by 24 inch tracing medium suitable for diazo copying purposes. Tentative partition plans shall be drawn to an appropriate engineer's scale.
- D. Required Information - The tentative partition plan shall show the following information:
1. Partition number assigned by the Planning Department;
 2. North arrow, scale, and date of preparation;
 3. A vicinity map showing the general location of the property;
 4. All exterior lot lines and approximate dimensions of the property being partitioned;
 5. All proposed lot lines and approximate dimensions;
 6. Jurisdictional or political boundaries;
 7. The property location (township, range, section and subdivision - where applicable);
 8. Approximate acreage of each parcel;

9. The existing and proposed use of the land;
10. Boundary lines of adjacent properties and the names of owners of record;
11. Approximate direction of slope and approximate percentage of slope for all parcels under 10 acres in size to be created;
12. Major natural physical features such as steep slopes, bluffs, rock outcroppings, canyons, all drainage;
13. All bodies of water such as rivers, streams, lakes, irrigation facilities;
14. The location and outline of existing buildings or other improvements on the property, and the address, if available;
15. The location, width and names of all existing and proposed streets or roads on or adjacent to the property;
16. The location and width of all existing and proposed easements on the property;
17. The location of all existing water wells, and the approximate location of any existing septic tanks and leach field on each parcel;
18. All existing and proposed utilities and the method of serving each parcel, including the source of domestic water and the method of sewage disposal;
19. Existing and proposed means of vehicular access to each parcels;
20. Approximate street grades and direction of surface water drainage flow on existing or proposed streets or roads;
21. The Comprehensive Plan and zoning designation(s) applicable to the property;
22. The name(s), address(es) and telephone number(s) of owners, contract purchasers, or representative of the property; and
23. The name, address, and telephone number(s) of the person preparing the tentative partition plan.

- E. **Property Owners List** - Names and addresses of all property owners as shown on the last preceding tax roll of the Klamath County Assessor shall be submitted in the following manner:
1. For land partitions involving land planned and zoned for agriculture or forestry, the property owners list shall encompass all property within 500 feet of the subject property;
 2. For land partitions partially or wholly outside of an urban growth boundary but not involving land planned and zoned for agriculture or forestry, the property owners list shall encompass all property within 300 feet of the subject property; or
 3. For land partition inside of an urban growth boundary, the property owners list shall encompass all property within 200 feet of the subject property.

45.070 - TENTATIVE PARTITION PLAN REVIEW

- A. **Referral of the Tentative Partition Plan for Comment** - No later than 15 days prior to the scheduled review date, the Planning Director shall furnish 1 copy of the tentative partition plan and supplemental materials to parties interested in or potentially affected by the proposed partition for their review and comment.
- B. **Property Inspection** - All proposed partitions may be inspected by the Planning Director, County Surveyor, Public Works Director, Environmental Health Director, or their authorized representatives prior to the scheduled review date. Unusual conditions that would adversely affect the subject property or adjacent property shall be noted, and appropriate recommendations developed for consideration by the review body.
- C. **Survey of Parcels** - The County Surveyor, upon review of the tentative partition plan, may recommend a survey of the property. Any parcel created by partition that is 10 acres or less in size shall be surveyed in accordance with applicable state statutes.
- D. **Review** - The appropriate review body shall review the tentative partition plan and all supplemental materials required by this code, and render a decision pursuant to procedures of Chapter 20.
- E. **Conditions** - The review body may grant approval of a partition plan subject to such reasonable conditions based on findings of fact that it deems necessary to ensure compliance with the Klamath County Comprehensive Plan or Land Development Code.

- F. Submission of Final Plat - An applicant for a land partition shall cause a final plat to be prepared and recorded with the County Clerk within 1 year of the final decision on the tentative partition plan. The applicant shall submit a final plat and all supplementary materials to the Planning Director not less than 30 days prior to the deadline, and shall secure all necessary approvals and signatures within 30 days of submitting the final plat to the County. The final plat shall conform to the approved tentative partition plan, Section 45.100 and applicable state statutes.
- G. If the time period for recording the final plat expires without the approved time extension, the applicant shall file a new partition application.

45.080 - IMPROVEMENTS

- A. The County Engineer may specify, or the review body require, improvements and/or repairs to roads or infrastructure to be installed or completed by the applicant.
- B. The applicant shall complete all required improvements or repairs prior to filing the final plat with the County, or shall execute a performance agreement with the County pursuant to Article 15.
- C. All required road improvements or repair of existing roads and public facilities shall be made in accordance with the requirements of the County Engineer.
- D. An improvement inspection fee shall accompany the submission of the final plat for those developments requiring improvements or repairs.

45.090 - TIME EXTENSION

Prior to the expiration date of approval of the tentative partition plan, an applicant may apply for a time extension.

- A. Requests for time extension shall be filed on forms provided by the Planning Department, and accompanied by the established fee.
- B. Review of requests for time extension shall be reviewed according to the Planning Director Review Procedure.
- C. Review Criteria - In order to approve a request for time extension, the Planning Director must find that:

1. The facts upon which the approval of the tentative partition plan was based have not changed to an extent sufficient to warrant resubmittal of the tentative partition plan;
 2. No other development approvals would be adversely affected by the time extension; and
 3. The applicant is unable to file the final partition plat due to circumstances beyond his or her control.
- D. A maximum of 3 time extensions may be granted following the date of approval of the tentative partition plan. The cumulative length of time extensions shall not exceed 3 years.
- E. If a request for time extension is denied and the time period for recording the final plat expires, a new partition application must be filed.

45.100 - FINAL PLAT REQUIREMENTS

- A. Original Drawing - The original drawing of a partition plat shall be made in permanent black India type ink on 7 mil mylar, 18 inches by 24 inches in size with an additional 3 inch binding edge on the left side. The plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the surveyors certificate and signature, and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than 1 inch. The original drawing shall be recorded in the County Clerk's office.
- B. Copy - One exact copy of the original plat made in permanent black India type ink or silver halide permanent photocopy on minimum 4 mil mylar, 18 inches by 24 inches in size shall be submitted to the Planning Director along with the original plat.
- C. Information Shown on the Final Plat
1. The partition number;
 2. The name of the person for whom the partition was made;

3. Signature Blocks for the following:
 - a. Planning Director;
 - b. County Surveyor;
 - c. County Engineer (if required under Section 45.110(C));
 - d. County Clerk;
 - e. Declaration that meets the requirements of Oregon Revised Statutes Chapter 92 similar in form and content to Article 46, Exhibits 2 or 3.
4. All requirements of ORS 92.050, 92.070(1), and ORS 209.250 where applicable;
5. Street names adjacent to the partition; and
6. Water rights certificate number, if applicable. If a water right is not appurtenant to the property, a statement signed by the owner indicating such shall be shown on the plat.

D. Supplemental Information to be filed with the Final Plat

1. A preliminary title report or partition guarantee issued by a title company in the name of the owner of the land and prepared within 30 days prior to submittal of the final plat showing all parties having any record title interest in the premises and what interest they have;

45.110 - FINAL PLAT REVIEW

- A. Approval of the County Planning Director - The Planning Director shall thoroughly review the final plat and supplementary information upon its submission within the required time frame. The final plat shall be signed by the Planning Director if it is in conformance with the tentative partition plan and the requirements of this code.
- B. Approval of the County Surveyor - The County Surveyor shall thoroughly review the final plat and supplementary information to determine that the plat complies with this code and all applicable state statutes. The final plat shall be signed by the County Surveyor if it is correct and in full conformance with this code and applicable state statutes.
- C. Approval by the County Engineer on any partition that includes the creation of a road. The County Engineer shall review and sign the final plat if any of the following conditions were required, and have been met:
 1. All required easements are recorded; and
 2. All required improvements or repairs have been completed, or a performance agreement executed with the County Engineer in accordance with Article 15.

- D. Approval of Tax Collector - No subdivision or partition plat shall be recorded unless all ad valorem taxes, including additional taxes, interest and penalties imposed on land disqualified for any special assessment and all special assessments, fees, or other charges required by law to be placed upon the tax roll have been paid which have become a lien upon the land or which will become a lien during the tax year. The County Tax Collector shall determine if these taxes have been paid, and if taxes have been paid, shall sign the final plat.
- E. Filing of Final Plat - After obtaining all required approvals and signatures, the applicant shall record the plat with the County Clerk and file an exact copy with the County Surveyor or County Planning Director. The exact copy shall be made in conformance with Section 45.100 and applicable state statutes.
- F. Expiration - Approval of the final plat shall be null and void if the plat is not recorded within 1 year of the final decision of the tentative partition plan unless a time extension has been granted.

ARTICLE 45.5 PROPERTY LINE ADJUSTMENT

45.510 - PURPOSE

The purpose of this article is to standardize property line adjustment procedures and ensure that the requirements of this code are met. A property line shall be a division line between two units of land which are in separate ownership.

45.530 - REVIEW PROCEDURE

- A. Initiation - An application for a property line adjustment shall be initiated by the owner, or agent of the owner, of the subject property. An agent's application shall be authorized in writing by the owner.
- B. Filing Fee - An application for a property line adjustment shall be accompanied by a filing fee set by the Board of County Commissioners to defray cost incidental to the review process.
- C. A property line adjustment shall be processed according to a Type I administrative review procedure.
- D. Applicant shall submit the materials described in Section 45.550.
- E. A property line adjustment shall be approved if all criteria in Section 45.540 are met.
- F. Following approval by the Planning Department, the applicant shall:
 - 1. Record the appropriate document with the County Clerk which implements the adjustment shown on the map submitted to the Planning Department;
 - 2. File a survey, when required with the County Surveyor; and
 - 3. Provide a copy of the map, and legal description or survey to the County Assessor and the Planning Department.

45.540 - REVIEW CRITERIA

- A. No property line adjustment will be approved unless both contiguous parcels are lawfully created;
- B. A property line adjustment shall not result in the creation of a new parcel;

- C. The parcels resulting from the property line adjustment conform to zoning regulation in terms of size, shape and setback requirements;
- D. Adjustments to nonconforming lots or parcels shall not result in greater nonconformity or render substantially conformed lots or parcel more nonconforming. A reduction in the size of a nonconforming lot or parcel may be approved if it contributes substantially to bringing an adjacent nonconforming parcel closer into conformance;
- E. The property line adjustment will not interfere with any public or private easement; and
- F. Proposed property line adjustments which have the net result of physically relocating a lot or parcel to a new location shall be reviewed as a land partition.

45.550 - SUBMITTAL REQUIREMENTS

Applicants shall submit to the Planning Department:

- A. Two copies of the site plan conforming to Section 41.060 and showing the lot or parcel sizes; and
- B. A survey prepared in accordance with ORS 209.250 if both parcels affected are 10 acres or less. No survey is required of 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. or
- C. When no survey is required, a legal description of the proposed adjustment shall be submitted.

ARTICLE 46 LAND SUBDIVISION

46.010 - PURPOSE

The purpose of the land subdivision procedure is to ensure that the division of land into lots for subsequent use and development is conducted in an orderly manner and in compliance with this code and Oregon law.

46.020 - REVIEW PROCEDURE

A preliminary subdivision plat shall be reviewed according to the Planning Commission Review Procedure (Article 26).

46.030 - REVIEW CRITERIA

- A. A subdivision plat may only be approved if it meets all applicable standards and review criteria.
- B. A subdivision plat shall be reviewed against the following criteria:
 - 1. The subdivision development complies with policies of the Comprehensive Plan;
 - 2. The subdivision plat is in conformance with all standards and criteria of this code and applicable state statutes;
 - 3. The site of the proposed subdivision is physically suitable for the type and density of the proposed development;
 - 4. The street plan for the proposed subdivision will permit its development in a safe and efficient manner in accordance with the Comprehensive Plan and this code;
 - 5. The street plan for the proposed subdivision will permit the development of adjoining land in a safe and efficient manner in accordance with the Comprehensive Plan and this code; and
 - 6. The existing and proposed infrastructure and public facilities and services required by this code are adequate to serve the proposed development.

46.040 - PROCESSING

Applications for a subdivision shall be processed as follows:

- A. Initiation - An application for a subdivision shall be initiated by the owner, or agent of the owner, of the property proposed as the site of the subdivision. An agent's application shall be authorized in writing by the owner.
- B. Filing - An application for a subdivision shall be filed on forms provided by the Planning Department, and shall set forth in detail all necessary information, and shall be accompanied by a preliminary subdivision plat drawn to the requirements of Section 46.050 and any other requirements of this code.
- C. Filing Fee - An application for a subdivision shall be accompanied by a filing fee set by the Board of County Commissioners to defray costs incidental to the review process.
- D. Incomplete Applications - Applications which are found to be incomplete or inaccurate by the Planning Director or his/her designee shall be returned to the applicant within 5 days of submittal along with a statement of specific deficiencies to be corrected. The applicant shall have 30 days from the postmark date of the notice in which to submit an amended application. If the applicant fails to complete or correct the application within the time provided, the application shall be deemed complete and transmitted to the appropriate review body with a recommendation for denial.
- E. Within 5 days of receiving an application, the Planning Director or his/her designee shall check the National Wetlands Inventory maps, located in the Planning Department, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on a site proposed for development, the Planning Director or his/her designee shall notify the Division of State Lands on a form provided. A copy of the letter shall be sent to the applicant. A final decision on the application cannot be rendered until the 30 day comment period, which begins on the day the notification letter is sent, has expired.
- F. Time Limitation - No request for a subdivision shall be considered by a review body within a one-year period immediately following a previous denial of such request.

46.050 - PRELIMINARY SUBDIVISION PLAT REQUIREMENTS

- A. Preparation and Submission - The subdivider shall cause to be prepared a preliminary plat, together with improvement plans and other supplementary material as may be necessary to indicate the general subdivision plan and objectives of the development.

B. Copies - 30 copies of the preliminary subdivision plat and other supplementary materials shall be submitted to the Planning Department.

C. Drawing Requirements - Preliminary subdivision plats shall be drawn to a standard engineer's scale and show the following information:

1. A tract number obtained from the County Surveyor.

a. The County Surveyor shall maintain a permanent record of all tract numbers.

b. When a number has been assigned by the County Surveyor for the subdivision of a particular parcel or contiguous parcels of land, the subdivider shall place the same number on the preliminary subdivision plat.

c. In addition to the number, a name may be used. Such name shall not be the same as, similar to, or pronounced the same as the name of any other subdivision in Klamath County.

2. Date, northpoint, scale of drawing and a vicinity map sufficient to define the location and boundaries of the proposed subdivision;

3. Location of the subdivision by section, township and range;

4. Names, addresses and phone numbers of all owners within the subdivision, the subdivider, (if other than the owner) and the registered surveyor;

5. Appropriate identification of the map as a preliminary subdivision plat.

D. Required Information - All preliminary subdivision plats shall show the following information:

1. Existing Conditions;

a. The location, width, and names of all existing or platted streets, ways or other public ways within or adjacent to the proposed subdivision, easements, railroad rights-of-way, and other important features, including but not limited to section lines and corners, city and school district boundaries;

- b. For subdivision within urban growth boundaries, contour lines shall be shown at the following minimum intervals, and shall be related to some established bench mark or other datum as approved by the County Engineer:
 - 1) 2 foot contour intervals for ground slopes between 0 percent and 10 percent; or
 - 2) 5 foot contour intervals for ground slopes exceeding 10 percent.
 - c. For subdivisions outside urban growth boundaries, contour lines shall be shown at intervals necessary to properly indicate the ground contour and to design the street pattern and lot layout, and shall be related to some established bench mark or other datum as approved by the County Engineer;
 - d. The location and direction of all water courses including a delineation of the high water mark;
 - e. Natural features such as rock outcroppings, wetlands, wooded areas, preservable trees; and
 - f. Existing uses of the property, including the location of all existing structures to remain on the property after platting.
2. Proposed Development;
- a. All streets showing the location, widths, names, approximate grades, and approximate radii of curves and the relationship of all streets to any projected streets;
 - b. The location and width of all existing and proposed easements, including the purpose of such easement;
 - c. Lot layout showing approximate dimensions, minimum lot size, and proposed lot numbers. A subdivision submitted for final approval shall not use block numbers or letters; and
 - d. All land proposed to be reserved by the subdivider for public purposes, showing the location, size and proposed uses.

- E. **Accompanying Statement.** A separate statement containing the following information shall accompany the preliminary subdivision plat if the following information cannot be shown practically on the preliminary subdivision plat;
1. Proposed uses of the property and present zoning;
 2. Existing and/or proposed deed restrictions, if any;
 3. A statement of the improvements proposed to be made or installed, the time such improvements are proposed to be made or completed, and the procedures the subdivider proposes to use;
 4. A statement of what provisions are proposed for water supply, sewage disposal and drainage;
 5. Identification of the irrigation district involved and provisions for delivering irrigation water to the lots in the subdivision.
- F. **Drainage Plan.** A drainage plan, prepared in accordance with Article 73 shall accompany all preliminary subdivision plats in the Klamath Falls Urban Area.
- G. **Evidence that the applicant has contacted the Environmental Health Department regarding the provision of on-site sewage disposal and other requirements, as applicable.**

46.060 - PRELIMINARY SUBDIVISION PLAT REVIEW

- A. **Review by the Planning Department -** Prior to a preliminary plat application being accepted as complete by the Planning Department and a hearing being scheduled before the appropriate review body, the applicant shall conduct a Pre-application Conference with a representative of the Planning Department.
- B. **Referral of the Subdivision Plat for Comment -** No later than 15 days prior to the scheduled review date, the Planning Director shall furnish 1 copy of the preliminary subdivision plat and supplemental materials to parties interested in or potentially affected by the proposed subdivision for their review and comment.
- C. **Property Inspection -** All proposed subdivisions may be inspected by the Planning Director, County Surveyor, the Public Works Director, Environmental Health Director, or their authorized representatives prior to the scheduled review date. Unusual conditions that would adversely affect the subject property or adjacent property shall be noted for the record, and appropriate conditions, plans, specifications, and/or improvements developed for consideration of the Planning Commission.

- D. Review by the Planning Commission - The Planning Commission shall review the preliminary subdivision plat and all supplemental materials of Section 46.050, and render a decision pursuant to procedures of Chapter 20.
- E. Conditions - The Planning Commission may grant approval of a preliminary subdivision plat subject to such reasonable conditions based on findings of fact that it deems necessary to ensure compliance with the Klamath County Comprehensive Plan or Land Development Code.
- F. Survey of Lots - Following the approval of a preliminary subdivision plat, the applicant shall cause the lots proposed for creation to be accurately surveyed and monumented in accordance with standards established in Oregon Revised Statutes Chapter 92.
- G. Submission of Final Plat - An applicant for a subdivision shall cause a final plat to be prepared and recorded with the County Clerk within 2 years of the final decision on the preliminary subdivision plat. The applicant shall submit a final plat and all supplementary materials to the Planning Director not less than 60 days prior to the deadline, and shall secure all necessary approvals and signatures within 60 days of submitting the final plan to the County.
- H. Re-submittal - If the time period for recording the final plat expires without an approved time extension, the applicant shall submit a new subdivision application.

46.070 - IMPROVEMENTS

- A. The subdivider shall install all required improvements and repair existing streets and other public facilities damaged in the development of the subdivision prior to submitting the final plat to the County; or
- B. The subdivider shall execute and file with the County Engineer an agreement pursuant to Article 15 of this code which specifies that all required improvements shall be completed within 2 years and providing that if such work is not completed the County may complete the work and recover the full cost and expense from the subdivider.
- C. The installation of all required roads and public facilities, and the repair of roads and public facilities shall be done in accordance with the requirements of the County Engineer and this code.
- D. An improvement inspection fee shall accompany the submission of the final plat for those developments requiring improvements or repairs.

46.080 - TIME EXTENSION

Prior to the expiration date of approval of the preliminary subdivision plat, an applicant may apply for a time extension.

- A. Requests for time extension shall be filed on forms provided by the Planning Department, and accompanied by the established fee.
- B. Review of a request for time extension shall be reviewed according to the Planning Director Review Procedure.
- C. Review Criteria - In order to approve a request for time extension, the Planning Director must find that:
 - 1. The facts upon which the approval of the preliminary subdivision plat was based have not been changed to an extent sufficient to warrant resubmittal of the preliminary subdivision plat;
 - 2. No other development approvals would be adversely affected by the time extension; and
 - 3. The subdivider is unable to file the final plat due to circumstances beyond his or her control.
- D. A maximum of 3 one-year time extensions may be granted following the date of approval of the preliminary subdivision plat.
- E. If a request for time extension is denied and the time period for submitting the final plat expires, a new subdivision application must be filed.

46.090 - FINAL PLAT REQUIREMENTS

- A. Conformance to Preliminary Subdivision Plat - The final plat must substantially conform to the approved preliminary subdivision plat and applicable state statutes. A final plat may show a decrease in number of lots or an increase of not more than 10 percent of number of lots from that shown on the preliminary subdivision plat.
- B. Drawing Requirements - The original drawing of the final plat shall be made in permanent black India type ink on 7 mil mylar, 18 inches by 24 inches in size with an additional 3 inch binding edge on the left side. The subdivision plat shall be of such scale as required by the County Surveyor. All information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The original drawing shall be recorded in the County Clerk's office.

- C. Copies - One exact copy of the original plat made in permanent black India type ink or silver halide permanent photocopy on minimum 4 mil mylar, 18 inches by 24 inches in size shall be submitted to the Planning Director along with the original plat. The exact copy shall be filed with the County Surveyor.
- D. Information Shown on Plat - The final plat shall be made to comply with ORS Chapter 92 and include the following:
1. The new number assigned by the County Surveyor, and if applicable, the name of the subdivision, date, scale, northpoint, legend and controlling topography such as creeks, highways, and railroads;
 2. Written legal description of the plat boundaries;
 3. The location, names and widths of all streets, existing or being created. For streets on a curve, curvature data shall be based on the centerline;
 4. Land parcels to be dedicated for any purpose, public or private, with all dimensions, boundaries, and courses clearly shown and defined in every case to be distinguished from lands intended for sale;
 5. The following certificates, declarations or affidavits, which may be combined where appropriate, exact as to form and content to those presented in Exhibits I through XIII of this article;
 - a. A declaration signed and properly acknowledged by all parties having any record title interest in the land to be subdivided, consenting to the preparation and recordation of land shown on the final map plat in accordance with Oregon Revised Statutes Chapter 92;
 - b. A certificate signed by the Registered Land Surveyor responsible for the survey and preparation of the final plat. The signature of such registered surveyor shall be accompanied by his seal;
 - c. A certificate signed by the County Engineer certifying that the subdivider has installed improvements or executed a performance agreement in accordance with Article 15.
 - d. A certificate signed by the County Assessor certifying that all ad valorem taxes and all special assessments, fees and other charges required by law to be placed on the tax roll which became a lien during the calendar year have been paid;

- e. A certificate, on the copy of the final plat, signed by the County Clerk and the Registered Surveyor certifying that the copy is a true and exact copy of the final plat; and
 - f. A certification signed by the subdivider that central water supply and sanitary sewer systems will not be provided and that the Department of Environmental Quality has approved the proposed method or alternative method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755(1)(b);
 - g. A certification by the authorized representative of the agency or authority which will provide these services if water and sewer services are to be provided.
- 6. Water rights certificate number. If a water right is not appurtenant to the property, a statement signed by the owner indicating such shall be shown on the plat; and
 - 7. Space for signatures of the following: County Surveyor, County Tax Collector, County Planning Director, County Clerk, and the Board of County Commissioners.

E. Supplemental Information to be filed with Final Plat:

- 1. A preliminary title report or subdivision guarantee issued by a title insurance company in the name of the owner of the land showing all parties having any record title interest in the premises and what interest they have;
- 2. The computation sheets showing the bearings, distances, and error of closure, if any, and the curve data of each lot in the subdivision, and of the outside boundary;
- 3. If applicable, a good and sufficient bargain and sale deed, executed to Klamath County, free from all restrictions, outstanding liens and encumbrances, conveying property other than streets, alleys or walkways for public use;
- 4. A copy of any deed restrictions applicable to the subdivision; and
- 5. Plans, profiles and specifications, prepared by the engineer showing proposed construction design and standards for all improvements. One reproducible copy of plans, profiles and specifications, prepared by the project's engineer to be submitted to and retained by the County Engineer showing proposed construction design and standards for all improvements. After approval by the County Engineer, any changes in the design work shall be

submitted to, and approved by, the County Engineer before construction begins. Approval of the completed improvements shall be made by the County Engineer or his authorized representative before the improvements are accepted and performance assurance released.

6. A completed and approved "Evaluation Report for Methods of On-Site Sewage Disposal for a Subdivision" described in ORS 454.755(1)(b); from the Environmental Health Department, if applicable.

46.100 - FINAL PLAT REVIEW

- A. Approval of the County Planning Director - The Planning Director shall thoroughly review the final plat and supplementary information upon its submission within the required time frame. The final plat shall be signed by the Planning Director if it is in conformance with the preliminary subdivision plat, requirements of this code, and any conditions of approval for the preliminary subdivision plat set by the Planning Commission.
- B. Approval of the County Assessor and County Tax Collector - The County Assessor shall review the subdivision proposal and shall sign the final plat if all required assessments, fees, and charges have been made current. The Tax Collector shall sign the final plat if all required assessments, fees, and charges have been paid.
- C. Approval of the County Surveyor - The County Surveyor shall thoroughly review the final plat and supplemental information to determine that the plat complies with all applicable statutes and provisions, and that the plat is technically correct and within the allowable limits of error prescribed by statutes. The final plat shall be signed by the County Surveyor if the final plat is correct and in full conformance with this code and State Law. The statutory fee for approval shall be submitted to the County Surveyor before certification of the final plat is made.
- D. Approval of the County Engineer - The County Engineer shall review and sign the final plat if all of the requirements of Section 46.070 and 46.090(E)(5) have been met.
- E. Approval of the Board of County Commissioners - After review of the final plat by the Planning Director, County Assessor, County Tax Collector, County Surveyor, and Public Works Director, the final plat shall be submitted to the Board of County Commissioners. The Board of County Commissioners shall sign the plat and accept it for recordation if the final plat meets all requirements of this code and state statutes.

- F. Filing of Final Plat - After obtaining all required approvals and signatures, the applicant shall record the original plat with the County Clerk and file an exact copy with the County Surveyor. Approval of the final plat shall be null and void if the plat is not recorded within 2 years of the final decision on the preliminary plat. The applicant shall furnish 1 print of the final plat to the County Assessor, the County Engineer, and the County Planning Director.
- G. Filing Reports with the State - The subdivider shall file appropriate reports with the State Real Estate Commissioner, in accordance with Oregon Revised Statutes, Chapter 92.

EXHIBIT I (Surveyor's Certificate)

SURVEYOR'S CERTIFICATE

STATE OF OREGON)
) ss.
COUNTY OF KLAMATH)

I, _____, Surveyor, hereby
certify that I have surveyed, subdivided and platted (Number and
Name of Subdivision) _____

_____ situated in Section, Township, Range: _____, more
particularly described as follows:

(Specific Legal Description)

and that I made such survey and plat by order of and under the
direction of the owners thereof; that the size of all lots and
the widths of all streets are as shown on the subdivision plat; and
that all lot corners and boundary corners are marked with iron pins
and wooden witness stakes as indicated on the plat.

Surveyor

EXHIBIT II (Owner's Declaration)

DECLARATION

STATE OF OREGON)
) ss.
COUNTY OF KLAMATH)

We, _____, husband and wife,
being duly sworn, depose and say that we are the owners of (Number
and Name of Subdivision), more particularly described in the
Surveyor's Certificate, that we did cause the same to be surveyed
and platted as shown on the subdivision plat and we do for
ourselves, our heirs and assigns, hereby dedicate, donate and
convey to the public use forever, all streets, alleys and ways on
said plat being subject to:

(List all building setbacks, special restrictions,
utility easements, irrigation easements, street
reservations, street plugs, covenants, etc.)

STATE OF OREGON)
) ss.
COUNTY OF KLAMATH)

Be it remembered that on this _____ day of _____,
19____, personally appeared before me _____,
husband and wife, who are known to me to be the identical persons
described in and who executed the above instrument, and who
acknowledged to me that they executed the same freely and
voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
official notary seal this _____ day of _____, 19____.

NOTARY PUBLIC FOR OREGON
My Commission Expires _____

