

- a. Parking area entrance and exit driveways are to be located a minimum of 50 feet from the nearest street intersection, as measured from the centerline of the driveway to the nearest travel lane of the intersecting street.
  - b. Entrance and exit driveways crossing the street property line of a single site are to be limited to 2 along the frontage of a single street. The centerline of driveways on the same property shall be separated by a minimum of 30 feet.
- E. Surfacing - All parking areas within the Klamath Falls Urban Growth Area shall be surfaced with an asphalt, concrete, chip seal, brick or other masonry paving units. All parking areas outside the Klamath Falls Urban Growth Area shall be surfaced with a minimum of a crushed rock gravel surface.
- F. Lining and Marking - Paved parking spaces shall be marked with paint striping, a minimum of 2 inches in width. Parking spaces in other types of lots may be identified by wheel stop barriers.
- G. Wheel Stops - Within the Klamath Falls Urban Growth Area, wheel stops or continuous concrete or asphalt curbing are required in all parking lots to define the perimeter of the parking area and to protect landscaping from vehicle encroachment. Wheel stops shall be constructed as follows:
1. Wheel stops shall be constructed of durable material not less than 6 inches in height. Wheel stops shall be securely installed and maintained as a safeguard against damage to adjoining vehicles, machinery or abutting property.
  2. Wheel stops or other vehicle barriers less than 2 feet in height shall be located no closer than 3 feet to any property line.
- H. Vertical Clearance - Covered parking spaces shall have a vertical clearance of at least 7'6" above the parking lot surface for all uses except residential.
- I. Slope - The finished grade of a parking lot shall not exceed 5 percent slope.

**68.080 - OFF-STREET LOADING REQUIREMENTS**

Buildings or structures constructed or altered which receive and distribute materials or merchandise by delivery truck shall provide off-street loading berth in the following manner:

A. The number of berths shall be established according to:

Gross Floor Area of Structure in Square Feet	Number of Required Berths
Up to 5,000	0
5,000 to 20,000	1
20,000 to 50,000	2
greater than 50,000	one for each additional 50,000 square feet

B. A loading berth shall contain a space not less than 10 feet wide and 50 feet long, and have an overhead clearance of not less than 14 feet. In no case shall a loading berth be designed such that any truck would interfere with a public street.

**CHAPTER 70  
PUBLIC WORKS DEPARTMENT  
DEVELOPMENT STANDARDS**

**ARTICLE 70  
BASIC PROVISIONS**

**70.010 - PURPOSE**

The purpose of this chapter is to establish standards for the design and development of sites in order to protect the public health, safety and welfare.

**70.020 - DISTINCTION BETWEEN URBAN AND RURAL AREAS**

As used in this chapter, urban area means any property or lands located within an Urban Growth Boundary of Bonanza, Chiloquin, Klamath Falls, Malin and Merrill established by a Comprehensive Plan. Rural area means all other property or lands.

**70.030 - IMPROVEMENT PROCEDURES**

The improvements required by this chapter shall conform to the requirements of this code, the Department of Public Works Standard Drawings, incorporated into this code by reference as Appendix A, as it may be revised, and other improvement standards adopted by the County and shall be in accordance with the following procedures:

- A. Construction work shall not be commenced until all required plans, profiles and specifications have been reviewed and approved by the Director of Public Works and appropriate State agencies. As required by the County Engineer, plans, profiles and specifications shall be submitted to the Director of Public Works prior to final development approval;
- B. Construction work shall not be commenced until the Director of Public Works has been notified; and
- C. Required improvements shall be constructed in accordance with specifications as set forth by the Director of Public Works and inspected for conformance. The County may require changes in typical sections and details if unusual conditions arising during construction warrant such change. Any similar changes initiated by the developer must be reviewed with and approved by the Director of Public Works.

## ARTICLE 71 VEHICULAR ACCESS AND CIRCULATION

### 71.010 - PURPOSE

The purpose of these standards is to ensure safe ingress and egress to and from properties; to minimize street congestion and traffic hazards; to provide safe and convenient access to businesses, public services, and places of public assembly; and to make vehicular circulation more compatible with surrounding land uses.

### 71.020 - ACCESS STANDARDS

- A. Vehicular Access - Vehicular access shall be provided to all lots or parcels from a dedicated street. Developments fronting on an arterial street or road may be required to provide a frontage or service road.
- B. Director of Public Works Approval - Access to property fronting upon a county or public road shall be subject to the approval of the Director of Public Works.
- C. State Highway Division Approval - Access to property fronting upon a state highway shall be subject to the permits issued by the State Highway Division.

### 71.030 - GENERAL ROADWAY DESIGN STANDARDS

The location, width and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the street. All street improvements shall be designed and constructed in accordance with the Department of Public Works Standard Drawings (Appendix A), as may be revised.

### 71.040 - MINIMUM RIGHT-OF-WAY WIDTHS

Except as otherwise required by this code, the minimum width of rights-of-way for land partitions, subdivisions and other affected development shall be as follows:

- A. Freeways - In accordance with the standards and specifications of the Oregon State Highway Division;
- B. Major Highways - 100 feet with improvements in accordance with the standards and specifications of this code;

- C. Arterial Street - 80 feet with improvements in accordance with the standards and specifications of the code;
- D. Collector Street - 60 feet with improvements in accordance with the standards and specifications of this code;
- E. Local Street - 60 feet with improvements in accordance with the standards and specifications of this code;
- F. Cul-de-sac Street - 60 feet with improvements in accordance with the standards and specifications of this code; and
- G. Private Streets or easements - 30 feet for all land partitions.

**71.050 - IMPROVEMENTS IN THE KLAMATH FALLS URBAN AREA**

The following roadway improvements shall be required for all subdivisions within the Klamath Falls Urban Growth Area unless otherwise specified, and shall be provided at the expense of the developer:

- A. Concrete curbs, gutters, sidewalks and paved roadways a minimum width of 36 feet shall be provided where the average lot size of the development is not greater than 20,000 square feet;
- B. Concrete curbs, gutters and paved roadways a minimum width of 36 feet shall be provided where the average lot size of the development is greater than 20,000 square feet and not greater than 43,560 square feet (1 acre);
- C. Roadways paved to a minimum width of 24 feet with gravel shoulders improved to a minimum width of 4 feet and drainage facilities as required by the Director of Public Works shall be provided where the average lot size of the development is greater than 43,560 square feet (1 acre);
- D. As required by the Director of Public Works, all rights-of-way shall be cleared between the catch points of cuts or fills of the approved cross section. The entire right-or-way shall be cleared of all flammable brush, limbs, logs and stumps outside of slope limits to the full width of the right-of-way;

- E. When necessary for public convenience and safety, the review body may require pedestrian ways to permit access to cul-de-sacs, to pass through oddly shaped or unusually long blocks, or to provide access to schools, parks or other public or private areas. Pedestrian ways shall be no less than 10 feet in width with an improved surface no less than 8 feet in width, and shall be dedicated to the public.
- F. All development shall be designed and constructed in accordance with the Department of Public Works Standard Drawings, as may be revised.

#### 71.060 - IMPROVEMENTS OUTSIDE THE KLAMATH FALLS URBAN AREA

The following improvements shall be required for all developments outside the Klamath Falls Urban Growth Boundary unless otherwise specified in an appropriate Urban Growth Area Management Agreement, and shall be provided at the expense of the developer:

- A. A minimum of roadways not less than 32 feet in width improved with not less than 6 inches of gravel or cinders and drainage facilities as required by the Director of Public Works shall be provided where the average lot size of the development is not greater than 5 acres;
- B. A minimum of roadways not less than 32 feet with a traveled way of 22 feet improved with not less than 6 inches of gravel or cinders and drainage facilities as required by the Director of Public Works shall be provided where the average lot size of the development is greater than 5 acres;
- C. As required by the Director of Public Works, all rights-of-way shall be cleared between the catch points of cuts or fills of the approved cross section. The entire right-of-way shall be cleared of all flammable brush, limbs, logs and stumps outside of slope limits to the full width of the right-of-way;
- D. All development shall be designed and constructed in accordance with the Department of Public Works Standard Drawings, as may be revised.

#### 71.070 - ROADWAY ALIGNMENT

- A. The Director of Public Works shall review and approve all roadway alignments;
- B. All streets and roads shall be in alignment with existing streets and roads by continuation of the existing centerline or by connection with curves, unless otherwise specified by the Director of Public Works;

- C. The intersections of offset alignments shall be spaced not less than 100 feet apart, unless otherwise specified by the Director of Public Works.

#### 71.080 - ROADWAY INTERSECTION ANGLES

The Director of Public Works shall review and approve all roadway intersections, and shall encourage intersection angles as near to 90 degrees as practicable with 50 foot tangent adjacent to the intersection based on topography and other relevant factors.

#### 71.090 - ROADWAY GRADES AND CURVES

- A. Roadway grades shall not exceed:
  - 1. 6 percent on major or arterial streets or roads;
  - 2. 10 percent on all other streets or roads.
- B. Centerline radii of curves shall not be less than:
  - 1. 300 feet on major or arterial streets or roads;
  - 2. 200 feet on collector streets or roads;
  - 3. 100 feet on all other streets or roads.

#### 71.100 - CUL-DE-SACS

- A. The length of a cul-de-sac shall be measured along the centerline of the roadway from the right-of-way line to the farthest point of the cul-de-sac.
- B. All cul-de-sacs shall terminate with a circular turn around having a right-of-way not less than 50 feet radius and an improved turnaround of not less than 40 feet radius, unless otherwise specified in this code.
- C. In urban areas a cul-de-sac shall not exceed 500 feet in length or serve more than 18 dwelling units;
- D. In rural areas, a cul-de-sac shall not exceed 700 feet in length, unless otherwise specified in this code.

#### 71.110 - EXISTING STREETS

Whenever existing streets, whether adjacent to or within the development, are of inadequate width, the additional necessary right-of-way within the development boundary shall be dedicated at the time of the land division.

#### 71.120 - RESERVE STRIPS AND STREET PLUGS

Reserve strips or street plugs dedicated to Klamath County may be required by the appropriate review body or Director of Public Works in order to control access to adjoining property or prevent substandard road development.

#### 71.130 - FUTURE STREET EXTENSIONS

When necessary to permit appropriate future development of adjoining land, streets or roads may extend to the boundary of the development. Street and roads extending to the boundary of the development shall terminate with an improved vehicle turnaround not less than 40 feet radius, and shall require dedication of a street plug.

#### 71.140 - HALF STREETS

When necessary to permit appropriate future development of adjoining land, a half street may be approved by the Director of Public Works and the appropriate review body. Reserve strips and street plugs may be required to achieve the purpose of this section.

#### 71.150 - BLOCKS

- A. The length, width and shape of blocks shall be designed with regard to providing a safe and efficient layout of building sites when considering topography, access, circulation and safety.
- B. Blocks shall not exceed 1,320 feet when measured from road centerline to road centerline.

#### 71.160 - ACCESS PERMITS

- A. Prior to the construction of any driveway or road which connects with a public or county road, a permit shall be obtained from the Director of Public Works.
- B. Prior to construction of any driveway or road which connects with a state highway, a permit shall be obtained from the State Highway Division.

71.170 - UTILITY PLACEMENT IN RIGHT-OF-WAYS

The location and installation of underground utilities, sewers, and drains installed below streets or roads shall be approved by the Director of Public Works. Installation shall be completed prior to road surfacing, and all individual service connections shall be of sufficient length that will obviate any need for street cuts when service connections are made.

**ARTICLE 72**  
**STREET NAMES, NUMBERS AND SIGNS**

**72.010 - STREET NAMES**

Except for extensions of existing streets or roads, no street name shall be used which is the same as, similar to, or pronounced the same as any existing streets or road in Klamath County.

**72.020 - STREET NUMBERS**

Street names and numbers shall conform to the established pattern for street numbers in Klamath County, and must be reviewed and approved by the Director of Public Works.

**72.030 - STREET SIGNS**

The developer shall deposit with the County, funds determined by the Director of Public Works to be sufficient to cover both the cost of materials and the cost of installation of street signs. Street signs shall be installed by the County.

## ARTICLE 73 SITE DRAINAGE

### 73.010 - PURPOSE

Standards and criteria for site drainage provide for the design of projects so as to minimize the harmful effects of storm water runoff and resultant inundation and erosion from projects, and to protect neighboring downstream and downslope properties from drainage impacts.

### 73.020 - DRAINAGE PLAN REQUIREMENTS

A drainage plans may be required by the Planning Director or the Director of Public Works for any development or land use which:

- A. Involves a land disturbance through grading, excavation or paving on lands with slopes in excess of 10 percent;
- B. Involves a land disturbance through grading, excavation or paving of an area that might reasonably be expected to impact drainageways;
- C. Involves a proposal that will create impervious surfaces of such extent that might reasonably be expected to impact drainageways;
- D. Involves land subject to local ponding due to soil or topographic conditions; or
- E. Involves land located in an area with a history of flooding, or may be subject to flooding.

### 73.030 - DRAINAGE PLAN PREPARATION

Drainage plans shall be neatly and accurately drawn, at a scale that will enable easy identification of required information. The Director of Public Works may require plans to be prepared by a Registered Civil Engineer.

- A. A drainage plan shall include the following information:
  - 1. Flow lines of surface waters onto and off the site;
  - 2. Existing and proposed contours at 2 foot intervals;
  - 3. Location and amount of cuts, fills or contouring;

4. Existing and proposed drainage ways;
  5. Building corner and street elevations for existing and proposed improvements;
  6. Existing and proposed retaining walls;
  7. The location and design of facilities for storage or conveyance of surface water runoff; and
  8. Estimates of existing and proposed runoff on the site.
- B. Engineered Drainage Plans shall include an evaluation of the effects of projected runoff on adjacent properties and existing drainageways.

#### 73.040 - DRAINAGE PLAN REVIEW

The Director of Public Works shall review each drainage plan and recommend appropriate measures to the appropriate review body. The Director of Public Works may require the installation or construction of certain improvements as required to prevent adverse runoff. The Director of Public Works may enter into an agreement with the developer for the installation of improvements pursuant to Article 15.

#### 73.050 - DRAINAGE SYSTEM STANDARDS

Drainage systems and facilities required by the Director of Public Works shall be designed and constructed according to standards determined by the Director of Public Works.

**ARTICLE 74**  
**URBAN AREA AND RURAL SERVICE CENTER WATER, SEWER**  
**AND FIRE PROTECTION SERVICE**

**74.010 - WATER SERVICE**

- A. Development within urban areas shall be served by a central public domestic water supply system or by a central private water supply corporation which has been certified by the County Health Department or the Oregon Health Division as adequate to provide for the health and sanitation needs of the area.
- B. Private water supply systems shall conform to the service standards of the preferred provider as identified in the respective Urban Growth Area Management Agreement.
- C. Fire hydrants shall be required, and shall meet the standards of the preferred provider.

**74.020 - SEWER SERVICE**

- A. Development within urban areas shall be served by a public sewage disposal system or by a private sewage service district or corporation which has been approved by the Oregon Department of Environmental Quality as adequate to provide for the health and sanitation needs of the area.
- B. Sewer Systems shall be installed in accordance with state and federal requirements, and must conform to the service standards of the preferred provider as identified in the respective Urban Growth Area Management Agreement.

**74.030 - SERVICE WITHIN WATER OR SEWER DISTRICTS**

In addition to other requirements specified in this article, new development within an existing water or sewer district shall meet the requirements of the preferred provider with respect to the provisions of water and sewer service.

**ARTICLE 75  
RURAL AREA WATER AND SEWER  
SERVICE**

**75.010 - WATER SERVICE**

- A. Development in rural areas may utilize either a central water supply system or individual wells at the option of the developer.
- B. Central water systems to any development must be certified by the County Health Department or Oregon Health Division as adequate to provide for the health and sanitation needs of the area.
- C. New developments not providing a central water system shall submit a written hydrology report prepared by a registered engineer at the time of submittal of a preliminary subdivision plat or planned unit development concept plan. The hydrology report shall document the quantity and quality of water in the vicinity based on the general history of wells in the area.

**75.020 - SEWER SERVICE**

Subdivisions or other developments in rural areas may use central sanitary sewer systems or on site septic systems as provided for in the following manner:

- A. A certification by a city-owned sewage disposal system or by a privately owned sewage disposal system that is subject to regulation by the Oregon Public Utility Commission that sewage disposal will be available to the lot line of each lot depicted on a subdivision plat or other development plan; or
- B. A bond, contract or other assurance by the developer to the city or county that a sewage disposal system will be installed by or on behalf of the developer to the lot line of each lot depicted on a subdivision plat or other development plan. The amount of such bond, contract or other assurance shall be determined by a registered professional engineer, and shall be subject to any change in such amount as the city or county considers necessary; or

- C. In lieu of subsections A and B of this section, a statement that no sewage disposal facility will be provided to the purchaser of any lot depicted on a subdivision plat or other development plan, where the Klamath County Department of Health Services or Oregon Department of Environmental Quality has approved method of sewage disposal for the subdivision or development in its evaluation report described in ORS Chapter 454. A copy of any such statement, signed by the developer and endorsed by the city or county shall be filed by the developer with the Real Estate Commissioner and shall be included in the public report made for the subdivision or development under ORS Chapter 92.

**75.030 - SERVICE WITHIN WATER OR SEWER DISTRICT**

In addition to other requirements specified in this article, new development within an existing water or sewer district shall meet the requirements of the preferred provider with respect to the provision of water or sewer service.

# ARTICLE 76

## UTILITIES

### 76.010 - UTILITIES IN URBAN AREAS

On-site utility service connections in urban areas shall be installed in accordance with the appropriate standards of the preferred service provider.

### 76.020 - UTILITIES IN RURAL AREAS

On-site utility service connections in rural areas shall be installed in accordance with the appropriate standards of the preferred service provider.

### 76.030 - UTILITY EASEMENTS

Easements for sewers, storm drainage, water mains, electrical lines or other public utilities shall be dedicated wherever necessary. Easements shall be a minimum of 16 feet in width and centered on rear or side lot lines except for tieback easements which shall be 6 feet wide by 20 feet along side lot lines at change of direction points of easements.

## ARTICLE 77

### SOLID WASTE

#### 77.010 - APPLICATION

Within the Klamath Falls Urban Growth Area all uses which create a need for solid waste or recycled material collection shall conform to the standards of this article.

#### 77.020 - COLLECTION STANDARDS

- A. Outdoor solid waste or recycled material collection areas which utilize dumpsters or other containers with a total capacity greater than 66 gallons shall be screened from view from a public street or adjoining property.
- B. The receptacle(s) for solid waste or recycled material collection shall be containerized and covered.
- C. The contractual arrangement for collection shall provide for keeping the immediate areas surrounding the collection site clean and free of debris.



CHAPTER 80  
SPECIAL USE STANDARDS

ARTICLE 80  
BASIC PROVISIONS

80.010 - PURPOSE

The purpose of this chapter is to establish supplementary property development standards for land uses that present unique or complex land use planning opportunities or constraints.

80.020 - APPLICATION

The standards in the chapter relate to the special characteristics of the uses and, unless otherwise specified, are to be applied in addition to all other applicable standards prescribed in this code. In the event that the standards contained in this chapter differ from other applicable standards of this code, the more stringent standards shall apply.

**ARTICLE 81**  
**MINERAL AND AGGREGATE EXTRACTION STANDARDS**

**81.005 - PURPOSE**

The purpose of this Article is to implement Article 57, the Significant Resources Overlay zone, to allow mineral and aggregate mining, processing, storage and stockpiling on all sites which are listed as 2A, 3A, or 3C on the acknowledged Klamath County Goal 5 Resources Inventory. This Article shall set out the standards to be used when reviewing an application for a development permit on any site listed as 2A, 3A, or 3C on the acknowledged Klamath County Goal 5 Resources Inventory. Article 57 is applied to a mineral and aggregate site using the procedure outlined in Section 57.080 and through a comprehensive plan and zone amendment as part of the Periodic Review process. This Article shall also serve as the standards to be used when reviewing mineral and aggregate mining, processing, storage and stockpiling either as a permitted use or a conditional use as allowed by the zoning on the parcel, on all sites which are listed as 1A, 1B or 3B on the acknowledged Klamath County Goal 5 Resources Inventory.

**81.010 - GOAL 5 STANDARDS**

- A. The impact area for a mineral or aggregate site is divided into two sections as follows:
1. The extraction area and the impact area may consist of one or more taxlot(s) or portions of single taxlots and may be applied to contiguous properties under different ownership. Both must be described by a legal description and drawn to scale on a map;
  2. The extraction area is the actual extraction, processing, and stockpile site as described by a valid Department of Geology and Mineral Industries (DOGAMI) operating permit or reclamation plan, the ESEE on a site which is on the Goal 5 inventory, or the site as described by a Conditional Use Permit application.
  3. The impact area shall be applied to properties or portions of properties adjacent to and immediately surrounding the extraction area.
    - a. The minimum width of the impact area shall be 1000 feet from the boundaries of the mineral or aggregate extraction area. The 1000 foot distance may be decreased by either:
      1. A written agreement between the owner of a sensitive or conflicting use and the owner or operator of the mineral or aggregate extraction

site. The agreement shall be notarized, recorded with the County Clerk and on the property deed, and shall run with the land. A copy shall be filed in the Planning Office.

2. As described and for reasons addressed in the site specific ESEE.

b. The decision to reduce or expand an impact area shall be based on the type of mineral and aggregate resource to be extracted, the mining method and type of processing, and the physical features of the surrounding area.

c. The minimum distance allowed by this procedure is 100 feet from the boundary of the extraction area to the conflicting use.

d. Applications for new or expanded uses within the impact area shall be processed under Section 57.030 and shall be required to sign a waiver of remonstrance to use, activation, or change in the use of a mineral or aggregate site. The waiver of remonstrance shall be notarized, recorded with the County Clerk and on the property deed, and shall run with the land. A copy shall be filed in the Planning Office.

e. The owner and operator (if any) of the mineral or aggregate site shall receive notice of any application for new or expanded sensitive or conflicting uses within the impact area.

4. Sensitive or conflicting uses are listed in 57.040(A).

B. The quality of the rock, basalt, aggregate or similar material used in road construction, located in the site, should meet or exceed the following standards for it to be determined significant:

1. Abrasion (AASHTO T96, OSHD TM 211): Loss of not more than 35% by weight;

2. Oregon Air Degradation (OSHD TM 208): Loss of not more than 35% by weight; and

3. Sodium Sulphate Soundness (OSHD TM 206): Not more than 17% by weight.

C. The significance of unique or common material including, but not limited to; Pumice, Cinders, Clay, Diatomaceous Earth, Andesite, Sand and Gravel, Borrow shall be considered on a case-by-case basis when:

1. The owner/operator of the site can show that a market exists for the resource being mined; or

2. The owner/operator has test data on the resource.

- D. The test data and other information on quality and quantity must be submitted by a certified geologist, mining engineer, registered professional civil engineer or qualified engineering testing firm.

#### 81.020 - APPLICATION

- A. The following activities shall be exempt from the standards set forth in this section in accordance with ORS 517.750(15) and ORS 215.298:
1. The proposed operation will not extract:
    - a. EFU zone: more than 1,000 cubic yards of material, or disturb more than 1 acre of land;
    - b. Other zones: more than 5,000 cubic yards of material, or disturb more than 1 acre of land within a period of 12 consecutive months;
  2. Excavations less than 5000 cubic yards of sand, gravel, clay, rock or other similar materials by the owner or tenant of a parcel for the construction, maintenance or re-construction of on-site access roads.
  3. Excavations or grading of a parcel conducted in the process of farming, forestry, and cemetery operations.
  4. The owner or operator of the parcel may be asked to substantiate an exemption claim.
- B. Preexisting mineral and aggregate operations must meet one of the following criteria to be exempt from the requirements of this Article:
1. The operator has a valid DOGAMI permit or County permit issued on or prior to the effective date of the adoption of Article 81; or
  2. The site is listed as a 2A, 3A, or 3C site on the Goal 5 Mineral and Aggregate Inventory as of February, 1992; or
  3. The owner or operator can establish the existence of the site prior to the implementation of zoning regulations and can establish that the site has been operated in the last calendar year and meets the criteria set out under Section 13.060 of this code.
- C. Expanding a preexisting site shall be subject to the requirements of this Article if the expansion will include use of additional acreage beyond that originally permitted by DOGAMI or the County permit or identified on the ESEE for the site.

- D. Preexisting sites may continue to operate subject to the terms and conditions (if any) of the original approval and the then existing Article 81, and are exempt from the requirements of Article 81, as amended on March 31, 1992, for as long as they are able to operate and maintain the preexisting status.
- E. All new and proposed mineral and aggregate sites shall be subject to these requirements.
- F. Mining or gravel extraction auxiliary to forest practices are exempt from the requirements of this Article.
- 3. Resumption of operation at an inactive surface mining site may be resumed without additional regulation under this code provided that the operation has maintained, on a continuous basis, a valid permit from the Oregon Department of Geology and Mineral Industries and other regulating authorities or a valid County Conditional Use Permit. Resumption of operation shall be subject to original conditions of approval and the Type II Administrative Review procedure.
- H. Resumption of an operation where a state or county permit has at any time expired or has otherwise been invalidated shall constitute a new operation and be subject to all applicable requirements of this code.

#### 81.030 - PROCEDURE

- A. New or expanded mineral or aggregate mining, processing, storage and stockpile sites added to the Goal 5 Mineral and Aggregate Inventory as 2A, 3A, or 3C sites with a development permit application, shall obtain a site plan approval processed using a Type I Review Procedure as set out under Section 22.030 of this Code.
- B. New or expanded mineral or aggregate mining, processing, storage and stockpile sites added to the Goal 5 Mineral and Aggregate Inventory as 2A, 3A, or 3C sites without a development permit application, shall obtain a site plan approval processed using a Type II Review Procedure as set out under Section 22.040 of this Code.
- C. New or expanded aggregate mining, processing, storage and stockpile sites added to the Goal 5 Mineral and Aggregate Inventory as 2A, 3A, or 3C sites within an EFU zone shall obtain a site plan approval processed using a Limited Land Use procedure as set out under House Bill 2261.
- D. All sites which hold valid DOGAMI permits when added to the Goal 5 Mineral and Aggregate Inventory as 2A, 3A, or 3C sites, shall not be required to obtain a site plan approval unless the extraction area is to be expanded beyond the boundaries established in the DOGAMI permit.
- E. The application for the review of a development permit shall contain the following:
  - 1. A completed application form; and
  - 2. A site plan with the location of the extraction area, any related processing, storage and stockpiling sites clearly delineated, that the standards set out in 81.050 have been met and that all requirements of a site specific ESEE have been met; and

3. A complete description of how all the standards set out in Article 81.050, and any site specific ESEE requirements have been met.
- F. The review authority shall approve the site plan upon a finding that the proposed or expanded site:
1. Meets all the standards set out under Section 81.050 of this Code; and
  2. Any site specific requirements contained in the ESEE are met and satisfied.

#### 81.040 - REVIEW PROCEDURE AND CRITERIA FOR CONDITIONAL USE PERMITS

- A. Where the underlying zone lists mining as a conditionally permitted use, and the mineral and aggregate site is listed on the Goal 5 Mineral and Aggregate inventory as 1-A or 1-B, mining operations may be allowed by conditional use permit, and shall be processed as follows:
1. The application of the Mineral and Aggregate Extraction standards shall be accomplished by a Conditional Use Permit as provided in Article 44 of this code.
  2. Notification procedures for the purpose of establishing a mineral extraction operation in a zone for which it may be conditionally approved shall differ from Article 32 to require notification of property owners within 1000 feet of the subject property.
  3. Applicants for a conditional use shall prepare and submit a statement that documents the nature of the mining activity. The statement shall include:
    - a. Method(s) of production, including types of equipment to be used, hours of operation, access to and from the site, and the anticipated annual extraction;
    - b. Availability of water for dust abatement and reclamation purposes;
    - c. Methods to be employed to minimize visual, dust and noise impacts to surrounding properties, including, but not limited to, utilizing natural landforms and existing vegetation, the placement of landscape or earthen berms, and a vegetative planting scheme; and
    - d. Other information deemed necessary by the planning department to review the proposal.
- B. In addition to the general criteria in Section 44.030, the following findings must be made for a Conditional Use Permit for mineral or aggregate extraction:
1. That the site will be operated in accordance with applicable state and/or federal regulations.

2. Standards specified in Section 81.050 are, or will, be met.
3. That the proposed access is engineered to accommodate any increased volume of traffic.
4. That the proposed access can safely handle the type of increased traffic flow which will accompany the development without significantly endangering the public health, safety or welfare.
5. That an adequate water supply is available to the site. (For dust control, required landscaping, reclamation, etc.)
6. That blasting which may be necessary will not damage existing structures or facilities (including wells). In lieu thereof, a bond or certificate of insurance the amount to be determined at the time of the review, shall be provided.

#### **81.050 - DEVELOPMENT AND SITING STANDARDS**

All operations, except those lawfully established preexisting uses or those preempted by the Oregon Forest Practices Act, shall meet the following standards:

- A. The landowner and operator shall be held jointly responsible for the operation of a mineral extraction site.
- B. Visual quality.
  1. Existing trees and other natural vegetation bordering adjacent public land or a non-resource (urban or rural) zoning district shall be preserved to screen the view of any mineral or aggregate activity including equipment, from any conflicting or sensitive use within the impact area;
  2. If vegetation or land forms do not provide acceptable screening to adjacent public land or non-resource zoned property, appropriate screening shall be provided at the property boundary or nearer to the site. Such screening shall be in the form of a fence, wall, landscaped berm, or natural vegetative cover to supplement any natural screening. The type of screening to be used shall be decided as a function of a site specific ESEE or a Conditional Use Permit;
  3. Screening may not be required when the natural topography of the site offers sufficient screening to screen the view of any mineral or aggregate activity including equipment, from any conflicting or sensitive use within the impact

area. This shall be decided as a function of a site specific ESEE or a Conditional Use Permit;

C. Water Quality.

1. All mineral and aggregate extraction sites shall show proof of a valid Oregon Department of Environmental Quality and/or Oregon Department of Water Resources permit when applicable which shall be decided as a function of a site specific ESEE or a Conditional Use Permit;
2. The operator shall not cause a change in the location of any stream channel or wetland without proof of a valid Oregon Division of State Lands and other affected state or federal agency permit or approval. The need for a valid Oregon Division of State Lands and other affected state or federal agency permit or approval shall be decided as a function of a site specific ESEE or a Conditional Use Permit.

D. Air Quality. All mineral and aggregate extraction sites shall be operated in a manner consistent with air quality regulations.

1. All mineral and aggregate extraction sites shall show proof of a valid Oregon Department of Environmental Quality air discharge permit, when applicable which shall be decided as a function of a site specific ESEE or a Conditional Use Permit;
2. All roads being used by the operator on private land shall be maintained to minimize dust when the road is located within 300 feet of a residence in existence on the date the mining operation was established.
  - a. Dust abatement shall conform to Oregon Department of Environmental Quality standards.
  - b. Dust abatement shall include, but not be limited to, road watering, chemical dust suppressant, and/or road paving or similar treatment.

E. Land Quality. All mineral and aggregate extraction sites shall be operated in a manner consistent with accepted reclamation practices.

1. The operator shall obtain a valid Oregon Department of Geology and Mineral Industries operating permit.
2. Land shall be reclaimed for subsequent beneficial uses. Beneficial use shall be a condition suitable for uses allowed by the zoning district, consistent with a reclamation plan approved by the Oregon Department of Geology and Mineral Industries, or the end use determined as a result of a site specific ESEE analysis or Conditional Use Permit.

F. **Operating Setbacks:** The setbacks shall be the same as the underlying zone except as follows:

1. Additional setbacks for a proposed site or expansion of an extraction area may be required as part of site specific ESEE or a conditional use permit or a DOGAMI operating permit or reclamation plan.

G. **Hours of Operation.**

1. Operation of mineral and aggregate extraction sites shall be limited to the hours between 6:00 a.m. and 10:00 p.m. Monday through Saturday.
2. Operating hours may be modified as determined by a site specific ESEE or a County Conditional Use Permit.
3. Modification of hours for operations involving public contracts for public facilities or public roads shall require the County Engineer's input regarding anticipated costs or cost savings of modified hours.
4. Subsequent modification of operating hours may be made through the Planning Director review procedure with notice as set out in Section 81.030(A).

H. **Blasting Restrictions.**

1. Blasting shall be restricted to the hours of 9:00 a.m. to 6:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or the following holidays: January 1; Memorial Day; July 4; Labor Day; Thanksgiving Day; December 25.
2. Exceptions to the blasting restrictions may be granted based on a site specific ESEE, or a Conditional Use Permit or if necessary to complete a specific road or construction project. The following criteria must be observed:
  - a. There are no noise sensitive uses located within one thousand (1000) feet of the mining site; or
  - b. The site is regulated by the Forest Practices Act; or
  - c. If noise sensitive uses are located within one thousand (1000) feet of the mining site, the increased activity will not exceed noise standards established by the Department of Environmental Quality; and
  - d. The operator of the mining site shall be responsible for notifying all noise sensitive uses located within one thousand (1000) feet of the mining site in person or by first class mail which is received at least forty-eight (48) hours prior to the date and approximate time of the blasting activity for which an operator receives an exception.

- I. The site may be blocked to the public through the installation of fencing and locked gates as determined by either the site specific ESEE or the conditional use process.
- J. Nuisance Mitigation. Mineral and aggregate sites shall be maintained and operated in a manner not detrimental to public health, safety and welfare.

#### 81.060 - CONDITIONS

The following conditions may be imposed on a 1-A, 1-B or a site which is not on the Goal 5 Mineral and Aggregate inventory, upon a finding that additional restrictions are warranted:

- A. A modification of required setbacks for adjacent land uses.
- B. Limiting the manner in which the use is conducted:
  - 1. Restraints to minimize noise, vibration and blasting, air pollution, glare, odor, dust, etc.;
  - 2. Limitations on lighting (i.e., location, intensity, possible shielding);
  - 3. Other restrictions deemed necessary by findings of fact.
- C. Additional access roads which circumvent residential areas.
- D. Off-site stockpiling or processing.
- E. Air, water or reclamation standards exceeding those required by state or federal law if justified by findings of fact.
- F. Limiting the height, size, or location of buildings or structures.
- G. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

#### 81.070 - LIFTING THE OVERLAY ZONE

- A. The owner of the property a mineral or aggregate site is located on, must submit a letter requesting the significant Resource Overlay Zone be lifted and the site be removed from the Mineral and Aggregate Inventory.
- B. The owner of the property a mineral or aggregate site is located on which is being operated under a valid Department of Geology and Mineral Industries (DOGAMI) permit must submit proof from DOGAMI that the site has been closed and reclaimed.

- C. All surface mining equipment, machinery, vehicles, buildings and related structures, accessory to the mineral or aggregate activity must be removed from the extraction area within 30 days of the completion of all mining, processing and reclamation activities, except for any structures allowed by the underlying zone.
- D. The zoning on the property shall revert to the underlying zone.
- E. Once the Significant Resources Overlay Zone is lifted, the site cannot be reactivated, mined, excavated, or used for processing or stockpiling of materials without complying with the requirements contained in the Klamath County Land Development Code.
- F. The owner of the property a mineral or aggregate site is located on may submit an application to apply the Significant Resources Overlay zone to a site which was previously zoned as such. The site will be treated as a new site and will not be considered as pre-existing or grandfathered.



**ARTICLE 83**  
**PLANNED UNIT DEVELOPMENT**

**83.010 - PURPOSE**

Traditional zoning establishes zone boundaries and sets forth permitted uses within various zones which are intended to apply to individual lots and parcels. Acknowledging that land may be more effectively developed in unified building groups for residential, commercial, industrial, and mixed uses through imaginative site design techniques, the County intends:

- A. To provide for a combination of uses on a single site when consistent with the Klamath County Comprehensive Plan;
- B. To provide flexibility in the application of the Land Development code;
- C. To promote the economy of shared public services and facilities;
- D. To enhance opportunities for creation of attractive, healthful, and efficient environments for housing, commerce and industry; and
- E. To best utilize the potential of sites characterized by special features of location, topography, size or shape.

**83.020 - EFFECT ON PREVIOUSLY APPROVED PUD ZONES**

All lots and parcels carrying a Planned Unit Development designation on the adopted Klamath County Zoning Map on November 15, 1990 shall revert to the underlying zone designation in the following manner:

- A. Development on parcels previously zoned PUD may continue consistent with any previously approved development plan. Development not specifically approved shall comply with this article.
- B. Lots or parcels for which the underlying zone is undetermined or unclear shall be legislatively rezoned at no cost to the property owner.

### 83.030 - REVIEW AUTHORITY

- A. The Planning Commission may review and authorize planned unit developments as conditional uses. The development shall be subject to all conditions imposed by the Planning Commission and shall be excepted from other provisions of this code only to the extent specified in the authorization.
- B. Planned unit residential developments may be allowed in the R-1, R-5, RS, RL, RM and RH zones.
- C. Planned unit commercial and light industrial developments may be allowed in the CG, CT, and IL zones.
- D. Planned unit mixed developments of residential and commercial/industrial uses may be allowed in the R-1, R-5, RS, RM, CG and CT zones.

### 83.040 - APPLICATION PROCEDURES AND CONTENTS

- A. Before submitting development plans for approval, an applicant proposing a planned unit development shall conduct a pre-application conference with the Planning Department to obtain general information, guidelines, procedural requirements, advisory opinions, and technical assistance for the project concept.
- B. Following a pre-application conference the applicant may prepare a preliminary development plan for review by the Planning Commission. Thirty copies of the development plan shall be submitted to the Planning Department along with a filing fee set by the Board of County Commissioners to defray costs incidental to the review process.
- C. In addition to the general requirements of this code, the preliminary plan shall contain the following elements:
  - 1. A development proposal consisting of:
    - a. General schematic maps which depict:
      - 1) The existing topography of the site, percent of slope, and contours shown at 2 foot intervals;
      - 2) Existing land uses adjacent to the site, including thoroughfares, their current design capacity and proposed future capacity;

- 3) The location of public uses including schools, parks, playgrounds, and other open spaces on the proposed site or nearby area which may serve the development; and
- 4) Common open spaces and a description of the proposed development and use of these spaces.

b. A written statement containing:

- 1) An explanation of the character of the development and the manner in which it has been planned to take advantage of the special provisions contained in this article;
  - 2) A financial capability report indicating prospective sources of funds and persons or groups having a financial interest in the project;
  - 3) Evidence of ownership or control of the land proposed for development, including location by legal description of the property, addresses of the applicant, owners, and designers of the development; and
  - 4) The method, operation and maintenance proposals for water supply, sewage disposal, fire protection, open space and recreation, area maintenance, and drainage.
2. A tentative land partition map or preliminary subdivision plat as may be necessary for the development including any replatting;
  3. A site plan showing the approximate location, heights, and setbacks of buildings, structures, and other improvements, and also indicating the open spaces to be provided, landscaping to be provided, the location and design of parking facilities, points of ingress and egress to the site, and major physiographic features;
  4. Elevation and perspective drawings of proposed structures;
  5. A development schedule indicating:
    - a. The approximate date when construction will begin; and

- b. The phases in which the project will be built, if any, and the approximate starting dates of each phase.
6. Agreements, provisions, or covenants which will govern the use, maintenance, and continued protection of the planned unit development and any of its open space areas;
7. The following plans and diagrams:
  - a. A circulation plan indicating proposed circulation and any special engineering features or traffic regulation devices needed to facilitate or ensure safety in the development;
  - b. A schematic landscape plan;
  - c. A drainage plan prepared in accordance with Article 73.

#### 83.050 - PERMITTED USES

- A. The following uses are permitted in a planned unit residential development
  1. A permitted or conditional use in the underlying zone.
  2. Commercial service supported mainly by residents of the development.
  3. Commercial uses if the design ensures adequate buffering to protect dwellings within the development and adjacent to it from traffic, noise or similar adverse influences. Dwellings may be situated within commercial uses.
- B. The following uses are permitted in a planned unit commercial and light industrial development or mixed use developments:
  1. A permitted or conditional use in the underlying zone;
  2. Varied arrangement and location of commercial or industrial building types and designs;
  3. Single or multiple family dwellings if designed with adequate buffering.

**83.060 - MINIMUM PARCEL SIZE**

A planned unit development may not be established on less than 5 acres of contiguous land unless the Planning Commission finds that the property is otherwise suitable due to its unique location, character, topography or other natural features, and is of sufficient size to be planned and developed in a manner consistent with the intent of this article.

**83.070 - DENSITY**

Dwelling unit density shall not exceed that allowed by the underlying zone. Where commercial or industrial uses are contained within a mixed use planned unit development, the land area occupied by such uses and accessory facilities shall not be included in the land area used to calculate the allowed density, and residential density shall be authorized by the Planning Commission

**83.080 - DESIGN STANDARDS**

- A. The setback requirements for the underlying zone shall apply to the planned unit development unless specifically determined or modified by the Planning Commission.
- B. Building heights shall not exceed the requirements of the underlying zone unless specifically modified by the Planning Commission where demonstrated that height variances are consistent with the overall development proposal and will not adversely affect adjacent land uses.
- C. Public works development standards of Chapter 70 shall apply unless specifically modified by the Planning Commission on a recommendation from the County Engineer.
- D. All electrical, telephone, cable television or other utilities shall be located underground.
- E. The layout and design of parcels and the siting of structures shall be oriented to take advantage of solar insulation when practical.
- F. Landscaping shall comply with the provisions of Article 65.
- G. Common dedicated open space shall comprise no less than 25 percent of the total site area, excluding roads, parking areas or commercial and industrial sites.

**83.090 - PLANNED UNIT DEVELOPMENT REVIEW CRITERIA**

A. planned unit development may be approved only if it meets the following review criteria:

- A. The existing and natural features of the land have been considered and will substantially contribute to the quality of the development;
- B. The development demonstrates design quality;
- C. The development will not have a substantial adverse impact on the surrounding area in terms of air, land and water quality, public facilities, natural hazards, or quality of the built environment;
- D. The development is planned to ensure a high degree of safety for users of the development and surrounding areas;
- E. The development will not require streets, roads or county services beyond that required by a typical lot-by-lot development; and
- F. The development complies with all other applicable review criteria and standards of this code.

**83.100 - PRELIMINARY DEVELOPMENT PLAN REVIEW PROCEDURE**

- A. Review of the preliminary development plan shall be in accordance with the provisions of the Planning Commission Review Procedure (Article 26).
- B. The Planning Commission may attach any conditions it deems necessary to the development plan approval when supported by substantial evidence in the whole record.
- C. The Planning Commission shall issue a final order of its decision on the preliminary development plan.

**83.110 - FINAL DEVELOPMENT PLAN REVIEW PROCEDURE**

- A. No later than 2 years following approval of the preliminary development plan, the applicant shall submit a final development plan for review. The final development plan shall conform to the approved preliminary development plan and shall incorporate all changes or conditions required by the Planning Commission.

- B. If the Planning Commission finds that the final development plan is materially different from the approved preliminary development plan, the applicant shall submit an amended plan for review. Submission of an amended plan shall be considered in the same manner as the original application.
- C. An approved final development plan shall bear the signatures of the Planning Director, County Surveyor, and County Engineer if all requirements of this code and state statutes are satisfied. A reproducible copy of the final development plan shall be filed with the County Planning Department.
- D. Any and all improvement work, including the construction and inspection of work by the County Engineer shall be the responsibility of the applicant, and shall be completed before approval of the final development plan. The applicant may enter into a performance agreement with the County Engineer for improvements pursuant to Article 15.
- E. Prior to the expiration date of approval of the preliminary development plan, an applicant may apply for a time extension.
  - 1. Requests for time extension shall be filed on forms provided by the Planning Department, and accompanied by the established fee.
  - 2. Review of requests for time extension shall be reviewed according to the Type II Administrative Review Procedure.
  - 3. A maximum of 2 time extensions may be granted following the date of approval of the preliminary development plan. The cumulative length of time extensions shall not exceed 2 years.
  - 4. If a request for time extension is denied and the time period for obtaining approval of the development plan expires, a new planned unit development application shall be filed.

**83.120 - CHANGES TO A FINAL DEVELOPMENT PLAN**

- A. The final development plan shall control the planned unit development throughout the course of its development.

- B. Any amendments of the final development plan following final approval shall be processed as a new application, and shall be considered if the amendment is necessary for the continued success of the development, or because of changes in conditions that have occurred since the final development plan was approved, or because there have been changes in the development policy of the community as reflected by the Klamath County Comprehensive Plan or related land use regulations.

**ARTICLE 84**  
**MANUFACTURED HOMES, RECREATIONAL VEHICLES, AND PARKS**

**84.010 - STANDARDS FOR MANUFACTURED HOMES**

- A. Manufactured homes placed on individual lots in zones identified in Chapter 50, and shall meet construction standards in accordance with Oregon Revised Statutes, Chapter 44.6 and Klamath County Code Chapter 403 and the following standards:
1. Shall be placed on an excavated and back-filled pier-pad as required by the Oregon Manufactured Home Code and enclosed with skirting material comparable with, and similar to the exterior siding such that the bottom portion of the exterior wall is not more than 12 inches above finished grade;
  2. Shall enclose a space of not less than 400 square feet;
  3. Shall be certified to meet 1976 U.S. Department of Housing and Urban Development standards for construction and safety.
- B. Manufactured homes placed on individual lots in zones within the Klamath Falls Urban Growth Area shall meet the following standards:
1. Shall be multisectional and enclose a space of not less than 1,000 square feet;
  2. Shall be placed on an excavated and back-filled pier-pad as required by the Oregon Manufactured Home Code and enclosed with skirting material comparable with, and similar to the exterior siding such that the bottom portion of the exterior wall is not more than 12 inches above finished grade;
  3. Shall have exterior siding and roofing which in color, material and appearance are similar to the exterior siding and roofing material commonly used on residential dwellings within the Klamath Falls Urban Growth Area; and
  4. Shall be certified to meet 1976 U.S. Department of Housing and Urban Development standards for construction and safety.

- C. Within the Klamath Falls Urban Growth Area, manufactured homes not meeting the Standards listed in subsection B of this section may be allowed as a temporary use permit subject to the provisions of Article 42 or as conditional use subject to the provisions of Article 44.
- D. All manufactured homes in Klamath County shall have a pitched composition roof, or shall be enclosed within a ramada or other comparable structure meeting requirements for snow load.
- E. Dwelling units meeting the definition of "Recreational Vehicle" as defined by ORS Chapter 446 and this code shall not be permitted on any individual lot or parcel except as specified in Section 84.040.

#### 84.020 - CRITERIA AND STANDARDS FOR MOBILE HOME PARKS

Mobile home parks established in zones allowing such uses as identified in Chapter 50 shall be developed in accordance with standards found in Oregon Revised Statutes, Chapter 446 and Oregon Administrative Rules, Chapter 814, Division 28, and in accordance with the following criteria and standards:

- A. Site development plans submitted to the Planning Department shall conform to the standards specified in ORS Chapter 446 and OAR Chapter 814, Division 28.
- B. Mobile home parks shall be no less than 2 acres in size.
- C. No more than 10 manufactured dwelling spaces shall be developed per acre.
- D. No building or structure shall exceed 25 feet in height.
- E. Exterior boundaries of the Mobile Home Park shall be screened with a sight-obscuring fence or hedge as provided for in Article 64.
- F. Vehicular access shall be onto a dedicated street or highway, and shall be subject to approval of the County Engineer or State Highway Division.
- G. Vehicular access points to the Mobile Home Park shall maintain a "clear-vision" setback pursuant to Section 62.060 or Section 64.020.
- H. Mobile Home Parks shall be landscaped as required in Article 65.
- I. Signs may be permitted pursuant to Article 66.
- J. Mobile Home Parks shall meet all Public Works Department standards of Chapter 70.

#### 84.030 - MANUFACTURED DWELLING STORAGE

A manufactured dwelling may be stored without utility service on a lot or parcel for not more than 6 months in any 12 month period subject to meeting all required property setbacks. Authorization for manufactured dwelling storage shall be obtained through application for a Site Plan Review conducted pursuant to the Type I Administrative Review Procedure, and shall be consistent with applicable zoning regulations.

#### 84.040 - SITING RECREATIONAL VEHICLES

Recreational vehicles are not designed for residential purposes according to standards and specifications of the Uniform Building Code which have been established to protect public health, safety and welfare. Recreational vehicles shall not be used for housing or residential purposes except:

- A. When the recreational vehicle is located on an individual lot or parcel during the construction of a dwelling or for use in the temporary care of a relative, and subject to a Temporary Use Permit (Article 42) and all applicable health and safety requirements of the Health and Building Department; or

#### 84.050 - UTILITIES AND SERVICES FOR RECREATIONAL VEHICLES

Any temporary use of a recreational vehicle requiring electrical service shall not be authorized without necessary zoning approvals from the Planning Department and approval for subsurface sewage disposal from the Health Department.

#### 84.060 - STANDARDS FOR RECREATIONAL VEHICLE PARKS

All recreational vehicle parks shall be designed to conform to the standards specified in Oregon Administrative Rules, Chapter 814, Division 29. The site plan requirements identified in the Administrative Rules shall be used by the County in reviewing any request for authorization of a Recreational Vehicle Park in any zone authorizing such use. Final approval rests with the State of Oregon.

## ARTICLE 85 HOME OCCUPATIONS

### 85.010 - PURPOSE

The purpose of this article is to ensure that home occupations conducted within one's own property are compatible with the neighborhood in which it is located, and maintain the character and appearance of both the use and the neighborhood.

### 85.015 - DEFINITION

Home occupation refers to an occupation or enterprise carried on within a dwelling or accessory building for 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 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.

For the purpose of this Article, a home occupation is an occupation or enterprise carried on within a dwelling or accessory building, for financial gain by a member of the immediate family residing within the dwelling; the occupation or enterprise must be accessory to the primary residential use.

### 85.020 - PERMITTED USE

A home occupation may be approved or conditionally approved in all zones allowing residential use pursuant to the Type II Administrative Review Procedure if the following criteria are satisfied:

- A. The business will be conducted solely by a resident of the property on which the business is located. No other employees are permitted.
- B. The home occupation is conducted primarily within a dwelling or accessory building;
- C. There is no outdoor storage of materials or goods;
- D. Machinery, tools, or equipment used is typically associated with residential use and will not have an adverse or harmful effect (i.e. noise, odor or fumes) to the establish land use of the area.
- E. The occupation shall not require internal or external alterations of the dwelling or accessory building; and

- F. The use will utilize a sign or nameplate not greater than 3 square feet in area.

#### 85.030 - CONDITIONAL USE

A home occupation may be approved in all zones allowing residential use as conditional use permit (Article 44), if the following criteria are satisfied:

- A. The business will be conducted principally by a resident of the property on which the business is located and will employ no more than 2 additional full- or part-time employees.
- B. The home occupation is conducted primarily within a dwelling or accessory building;
- C. The business is not the primary use of the property;
- D. The home occupation shall not occupy more than 25 percent of the total floor area of all structures located on the same property as the home occupation;
- E. The use will not require internal or external alterations, modifications, or construction features that change the principle character of the use or structure involved;
- F. One (1) off-street parking space is provided for each employee and one (1) off-street parking space is provided for each 300 square feet of gross floor area of the use;
- G. The use will utilize a sign not greater than 6 square feet in area; and
- H. Outdoor storage of materials shall be screened from view of the street and adjacent property by a sight-obscuring fence or hedge.

#### 85.040 - ANNUAL REVIEW

The Planning Director or designee shall review a permit allowing a home occupation every 12 months following the date the permit was issued, and may continue the permit if the home occupation continues to comply with the requirements of this article. Annual review shall be conducted in accordance with the Type II Administrative Review Procedure.

#### 85.050 - BED AND BREAKFAST STANDARDS

Bed and Breakfast operations may be allowed subject to a conditional use permit (Article 44) if the following criteria are satisfied in addition to those of Section 44.030:

- A. Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.
- B. One off-street parking space shall be provided for each guest room. The front yard shall not be used for off-street parking for guests unless the parking area is screened and landscaped pursuant to Articles 64 and 65.
- C. Those facilities providing service to more than 6 guests are not considered "license exempt" under state law and must comply with state hotel/motel restaurant licensing procedures administered by the Health Department. The issuance of such licenses shall not be considered as conferring nonconforming status to the use which would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use.
- D. 1 on-premise sign may be approved provided that such sign is not more than 6 square feet in size.
- E. Room rentals to guests shall not exceed 14 consecutive days.
- F. The bed and breakfast facility must be accessory to and contained within the single-family dwelling occupied by the owner (not a manager) or within accessory dwelling units or structures which lawfully exists.
- G. The bed and breakfast facility shall not begin operation until the Health Department has inspected and approved the facility.

## ARTICLE 86 ARCHEOLOGICAL RESOURCES

### 86.010 - PURPOSE

The purpose of this article is to establish provisions to mitigate adverse impacts to archaeological resources and to prescribe the means by which archaeological resource sites are assessed.

### 86.020 - APPLICATION

Until such time as specific inventory work accurately identifies and designates archaeological resources, a use or activity identified as a conflicting use in Section 57.040(H) shall be reviewed pursuant to the provisions of this article when the use or activity is located in a high or medium probability area within known archaeologically sensitive area identified in the Comprehensive Plan.

### 86.030 - EXEMPTIONS

The following uses and activities are exempt from the requirements of this article:

- A. A use or activity proposed in a low probability area;
- B. Forest operations regulated by the Oregon Forest Practices Act;
- C. Accepted farm practices as defined by this code;
- D. Residential uses.

### 86.040 - PROBABILITY AREAS

- A. High probability areas include:
  - 1. Previously recorded sites
  - 2. Linear features such as trails, roads, ditches and railroads
  - 3. Areas adjacent to seeps, springs, ponds and lakes
  - 4. Benches and terraces adjacent to streams
  - 5. Bottomlands next to rivers and streams
  - 6. Foothills near rivers at the edge of floodplains
  - 7. Meadow edges
  - 8. Areas near extinct water systems
  - 9. Scabland plateaus

10. Lava and tuff tablelands
11. Ridges and saddles
12. Obsidian sources
13. Class I streams with former anadromous fish runs
14. Lava tubes and caves
15. Alluvial slopes

B. Medium probability areas include:

1. Geologic formations that could contain caves or overhangs
2. Promontories
3. Feeder ridges for trail systems
4. Floodplains and benches of intermittent streams

**86.050 - SURVEY REQUIREMENTS**

An application for a use or activity subject to the provisions of this article shall be accompanied by documentation identifying archaeological resources on the affected site. Documentation shall provide a determination of significance based upon the following criteria:

- A. The resource possess integrity of the original or historically evolved design, setting, materials, workmanship, feeling and one or more of the following criteria apply:
1. The site is associated with events that have made a significant contribution to the patterns of county history or prehistory;
  2. The site is associated with the lives of significant persons or groups;
  3. The site embodies distinctive characteristics of a style, type, period or method of construction, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
  4. The site has yielded, or may be likely to yield in formation important to county history or prehistory.
- B. Documentation Requirements. Documentation from a professional archaeologist as defined in ORS 97.740 or a duly authorized representative of a native American tribe. Documentation shall include:
1. Time and date of the survey, and person(s) responsible;

2. Survey methodology;
3. A description of published and unpublished reports consulted regarding archaeological resources potentially present in the area;
4. Findings and a determination of significance; and
5. A discussion of adverse impacts and appropriate measures to mitigate potential impacts.

**86.060 - EFFECT OF SURVEY AND DETERMINATION**

- A. If a site is identified and is not determined significant, the proposed use or activity may proceed without any additional consideration to the archaeological resource.
- B. If a site is identified and determined to be significant, the following appropriate measures shall be considered:
  1. Avoid the site, unless demonstrated to be impracticable;
  2. Bury or cover the site without disturbing it, unless demonstrated to be impracticable; or
  3. Redesign the project to minimize impacts and excavate and recover data from any disturbed area(s) at the developer's expense.

**86.070 - POST-DEVELOPMENT DISCOVERY**

- A. If an archaeological object, deposit or artifact is discovered during any development action, individuals shall report the discovery as soon as possible to the Planning Department. Requirements for reporting discoveries shall be incorporated into any final decision on a permit application governed by this article.
- B. No development shall be delayed or halted without the developer's or landowners's consent unless an Indian burial site is involved.
- C. The Planning Department shall notify the appropriate native American tribe, the State Historic Preservation Office, and other appropriate agencies or individuals charged with archaeological resource preservation in order that the landowner and interested parties may negotiate and resolve any conflicts.

- D. Any individual encountering archaeological resources in the course of any development shall comply with Oregon law including ORS 358.905 (Archaeological Objects and Sites), 273.705 (Removal of Historic and Other Valuable Materials), 97.740 (Protection of Indian Graves). The relevant native American tribal government may request to receive recovered nonsacred artifacts following research studies, subject to approval of the landowner or developer.

# ARTICLE 87

## HISTORIC BUILDINGS AND SITES

### 87.010 - PURPOSE

The purpose of this article is to establish provisions for the review of development proposals affecting identified historic properties.

### 87.020 - APPLICATION

- A. This article shall apply to all buildings and sites designated as significant ("I-C") in the Comprehensive Plan. Said buildings and sites are declared important historical resources.
- B. A permit is required for alteration or demolition of any structure identified as significant.
- C. Alteration as used in this article means any addition to, removal of, or change in the exterior part of a structure, and shall include modification of the surface texture, material or architectural detail of the exterior part of the structure, but shall not include paint color.
- D. Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature that does not involve a change in design, material or external appearance. Furthermore, this article does not prevent the construction, reconstruction, alteration, restoration, demolition or removal of any feature when the Building Official, State Fire Marshal or other public official determines that emergency action is required for public safety.

### 87.030 - REVIEW PROCEDURE

- A. A property owner or authorized agent may initiate a request for a permit for alteration or demolition of a historic structure by filing an application with both the Building Official and Planning Department.
- B. Applications for alteration or demolition of a historic structure shall be subject to the Type III Administrative Review Procedure (Article 22).
- C. In addition to the notice requirements as set forth for the Type III Administrative Review Procedure, notice shall be provided to appropriate agencies as specified in Section 57.080.

## 87.040 - REVIEW CRITERIA

The review body shall approve an application for exterior alteration if the proposal is determined to be harmonious and compatible with the appearance and character of the historical building and shall disapprove any application if found detrimental as unsightly, grotesque or adversely affecting the architectural significance, the integrity or historical appearance, and the educational and historic value of the building. The following criteria apply to exterior alterations to historical buildings:

- A. Retention of original construction - So far as practicable, all original exterior materials and details shall be preserved.
- B. Height - Additional stories may be added to historic buildings provided that:
  - 1. The added height complies with requirements of the building and zoning codes,
  - 2. The added height does not exceed that which was traditional for the style of the building.
  - 3. The added height does not alter the traditional scale and proportions of the building style.
  - 4. The added height is visually compatible with adjacent historic buildings.
- C. Bulk - Horizontal additions may be added to historic building provided that:
  - 1. The bulk of the addition does not exceed that which was traditional for the building style.
  - 2. The addition maintains the traditional scale and proportion of the building style.
  - 3. The addition is visually compatible with adjacent historic buildings.
- D. Visual Integrity of Structure - The lines of columns, piers, spandrels, and other primary structural elements shall be maintained so far as is practicable.
- E. Scale and Proportion - The scale and proportion of altered or added building elements, the relationship of voids to solids (windows to walls) shall be visually compatible with the traditional architectural character of the historic building.

- F. Materials, Color and Texture - The materials, colors and texture used in the alteration or addition shall be visually compatible with the traditional architectural character of the historic building.
- G. Signs, Lighting and other Appurtenances - Signs, exterior lighting and other appurtenances, such as walls, fences, awnings, and landscaping shall be visually compatible with the traditional architectural character of the historic building.

**87.050 - REVIEW BODY ACTION FOR DEMOLITIONS**

Based on the applicable review criteria, the review body shall take the following action on proposals for demolition of a historic structure:

- A. Delay issuance of the demolition permit for up to 90 days, during which the Planning Director, together with appropriate agencies and interested persons, shall attempt to determine if public or private acquisition and preservation of the structure is feasible, or if other alternatives are possible which could be carried out to prevent demolition of the structure; or
- B. Approve immediate issuance of the demolition permit if:
  - 1. The structure cannot be economically rehabilitated; and
  - 2. A program or project does not exist which may reasonably result in preservation of the structure; and
  - 3. Delay of the demolition permit would result in unnecessary and substantial hardship to the applicant and property owner; and
  - 4. Issuance of the demolition permit will not act to the detriment of the public welfare considering the economic, cultural and social consequences of demolishing the structure.

ARTICLE 88  
DESTINATION RESORT OVERLAY  
(DRO)

88.010 - PURPOSE

The purpose of the Destination Resort Overlay zone is to provide a process for the siting of destination resorts on rural lands that have been mapped by the County as eligible for this purpose. The Destination Resort Overlay is intended to provide for properly designed destination resort facilities which enhance and diversify the recreational opportunities and economy of Klamath County. The Destination Resort Overlay will ensure resort development that complements the physical attractiveness of an area without significant adverse effect on commercial farming and forestry operations or the significant natural and cultural features which contribute to the setting.

88.015 - APPLICABILITY

- A. The provisions of this Article shall apply solely to development which meets the standards set forth in Section 88.030 or Section 88.035. Development which meets the standards in Section 88.030 shall be referred to hereafter as destination resorts, and development which meets the standards in Section 88.035 shall be referred to hereafter as small destination resorts. Where special standards or criteria are not specifically called out for small destination resorts, the standards for destination resorts shall apply. For a destination resort application, the standards and procedures of this Article shall govern in cases where they conflict with the standards or procedures of the underlying zone. Other provisions of this Code, made applicable by specific map designations such as Significant Resource Overlay (SRO), Airport Safety Overlay (ASK), Airport Noise Overlay (ANK), Airstrip Safety Overlay (AS), and Flood Hazard Overlay (FHZ), or otherwise applicable under the terms of the Land Development Code text shall remain in full force and effect, except as otherwise specified herein.
- B. Destination resorts shall be allowed only on tracts mapped by the County as eligible for destination resort siting and designated as such in the Comprehensive Plan.

88.020 - DEFINITIONS

- A. "Developed recreational facilities" means improvements constructed for the purpose of recreation and may include but are not limited to golf courses, tennis courts, playing fields, interpretive centers, wildlife observation shelters, nature trails, swimming pools, marinas, ski trails, snowmobile trails, bicycle paths, and indoor and outdoor sport facilities.

- B. "Open space" means any land that is retained in a substantially natural condition, or is improved for outdoor recreational uses such as golf courses, playing fields, hiking or nature trails or equestrian or bicycle paths, or is specifically required to be protected by a conservation easement. Open spaces may include ponds, lands protected as important natural features, lands preserved for farm or forest use, required landscaped areas and lands used as buffers. Open space does not include residential lots or yards, streets or parking areas.
- C. "Overnight lodgings" means permanent, separately rentable accommodations which are not available for residential use. Overnight lodgings include hotel rooms, lodges, cabins and time-share units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation and check-in service. Tent sites, recreational vehicle parks, manufactured dwellings, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition.
- D. "Self-contained development" means a development for which community sewer and water facilities are provided onsite and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A "self-contained development" shall have developed recreational facilities provided onsite.
- E. "Tract" means a lot or parcel or more than one contiguous lot or parcel in a single ownership. A tract on which a destination resort is sited may include property that is not included in the destination resort if the property to be excluded is on the boundary of the tract and constitutes less than 30 percent of the total tract.
- F. "Visitor-oriented accommodations" means overnight lodging, restaurants and meeting facilities which are designed to provide mainly for the needs of visitors rather than area residents.

#### 88.030 - STANDARDS

A destination resort shall meet the following standards:

- A. Development shall be located on a tract that contains a site of at least 160 acres.

- B. The site must have direct access onto a state or county roadway, as designated by the County or the Oregon Department of Transportation. Standards shall be in accordance with Article 71 of this Code.
- C. Development shall include meeting rooms, restaurants with seating for at least 100 persons, and a minimum of 150 separate rentable units for overnight lodging, oriented toward the needs of visitors rather than area residents. However, the rentable units may be phased in as follows:
  - 1. A total of 150 units of overnight lodging shall be provided as follows:
    - a. At least 75 units of overnight lodging, not including any individually owned homes, lots or units, shall be constructed or guaranteed pursuant to Article 15 through surety bonding or equivalent financial assurance prior to the closure of sale of individual lots or units.
    - b. The remainder shall be provided as individually owned lots or units subject to deed restrictions that limit their use to use as overnight lodging units. The deed restrictions may be rescinded when the resort has constructed 150 units of permanent overnight lodging as required by this subsection.
  - 2. The number of units approved for residential sale shall not be more than two units for each unit of permanent overnight lodging provided under paragraph (1)(a) of this subsection.
  - 3. The development approval shall provide for the construction of other required overnight lodging units within five years of the initial lot sales.
- D. All required developed recreational facilities, key facilities intended to serve the entire development and visitor-oriented accommodations shall be physically provided or guaranteed pursuant to Article 15 through surety bonding or equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilities intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding. Nothing in this subsection shall be interpreted to require the construction of all approved phases of a destination resort, provided that the destination resort as developed complies with the standards of this section.

- E. At least \$7 million shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.
- F. Commercial uses are limited to those listed in Section 88.045(H). Such uses must be internal to the resort, and are limited to types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted.
- G. At least 50 percent of the site shall be dedicated to permanent open space, excluding street and parking areas. Open space areas shall be maintained as such in perpetuity through deed restrictions.
- H. If the site includes a resource site designated on the County's Goal 5 inventories as significant ("1C"), the resource site shall be protected in accordance with the adopted Goal 5 management plan for the site. "3A" sites shall also be preserved by a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement required under this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to development of the phase of which the resource site is a part.
- I. Riparian vegetation within 100 feet of lakes, rivers, streams and designated significant ("1C") wetlands shall be retained.
- J. The standards of Chapter 60 apply to destination resorts, except as limited or clarified as follows:
1. For purposes of applying the standards of Chapter 60, development under this Article shall be treated as if it were zoned CR (Recreational Commercial).
  2. All destination resorts, whether located inside or outside the UGB, shall comply with the landscaping standards of Article 65 for all visitor-oriented accommodations and accessory uses (other than temporary uses).
  3. The Planning Commission may alter any of the standards of Chapter 60 (except standards relating to signs) applicable to a destination resort if it determines that the standards as altered are consistent with public safety, preservation of open space, efficient provision of public facilities and services, and will not result in an adverse effect on adjacent land uses.

K. Except where more restrictive minimum setbacks are called for, the minimum setback from exterior property lines for all development (including structures and site-obscuring fences of over three feet in height but excepting existing buildings and uses) shall be as follows:

1. 250 feet for commercial development listed in Section 88.045, including all associated parking areas;
2. 150 feet for visitor-oriented accommodations other than single-family residences, including all associated parking areas;
3. 50 feet for above-grade development other than that listed in subsections (1) and (2);
4. 25 feet for internal roads;
5. 50 feet for golf courses and playing fields;
6. 25 feet for jogging trails, nature trails and bike paths where they abut private developed lots and no setback for where they abut public roads and public lands;
7. The setbacks of this section shall not apply to entry roadways, landscaping, utilities and signs.

#### 88.035 - STANDARDS FOR SMALL DESTINATION RESORTS

In lieu of the standards set forth in section 88.030, the standards set forth in this section may be applied to a destination resort on land that is not zoned Exclusive Farm Use, Forestry, or Forestry-Range in the County's comprehensive plan, or on land where there has been an exception to any statewide planning goal with respect to agricultural lands, forestlands, public facilities and services and urbanization.

Developments which meet the following standards shall be considered small destination resorts:

- A. The resort shall be located on a tract that contains a site of at least 20 acres.
- B. The resort must provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area. Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing stream.
- C. At least 25 units, but not more than 75 units, of overnight lodging shall be provided. A restaurant and meeting room with at least one seat for each unit of overnight housing shall be provided.

- D. At least \$2 million shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. Spending required under this subsection is stated in 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in accordance with the United States Consumer Price Index.
- E. Residential uses shall be limited to those necessary for the staff and management of the resort.
- F. The resort shall be constructed and located so that it is not designed to attract highway traffic. Resorts shall not use any manner of outdoor advertising signing except:
  - 1. Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and
  - 2. Onsite identification and directional signs.
- G. Commercial uses are limited to those listed in Section 88.045(H). Such uses must be internal to the resort, and are limited to types and levels of use necessary to meet the needs of visitors to the resort. Industrial uses of any kind are not permitted.
- H. At least 50 percent of the site shall be dedicated to permanent open space, excluding street and parking areas. Open space areas shall be maintained as such in perpetuity through deed restrictions.
- I. If the site includes a resource site designated on the County's Goal 5 inventories as significant ("1C"), the resource site shall be protected in accordance with the adopted Goal 5 management plan for the site. "3A" sites shall also be preserved by a conservation easement sufficient to protect the resource values of the resource site. Any conservation easement required under this subsection shall be recorded with the property records of the tract on which the destination resort is sited prior to development of the phase of which the resource site is a part.
- J. Riparian vegetation within 100 feet of lakes, rivers, streams and designated significant ("1C") wetlands shall be retained.
- K. The standards of Chapter 60 apply to small destination resorts, except as limited or clarified as follows:
  - 1. For purposes of applying the standards of Chapter 60, development under this Article shall be treated as if it were zoned CR (Recreational Commercial).

2. All small destination resorts, whether located inside or outside the UGB, shall comply with the landscaping standards of Article 65 for all visitor-oriented accommodations and accessory uses (other than temporary uses).
  3. The Planning Commission may alter any of the standards of Chapter 60 (except standards relating to signs) applicable to a small destination resort if it determines that the standards as altered are consistent with public safety, preservation of open space, and efficient provision of public facilities and services, and will not result in an adverse effect on adjacent land uses.
- L. Except where more restrictive minimum setbacks are called for, the minimum setback from exterior property lines for all development (including structures and site-obscuring fences of over three feet in height but excepting existing buildings and uses) shall be as follows:
1. 250 feet for commercial development listed in Section 88.045, including all associated parking areas;
  2. 150 feet for visitor-oriented accommodations other than single-family residences, including all associated parking areas;
  3. 50 feet for above-grade development other than that listed in subsections (1) and (2);
  4. 25 feet for internal roads;
  5. 50 feet for golf courses and playing fields;
  6. 25 feet for jogging trails, nature trails and bike paths where they abut private developed lots and no setback for where they abut public roads and public lands;
  7. The setbacks of this section shall not apply to entry roadways, landscaping, utilities and signs.

88.040 - PERMITTED USES

- A. Visitor-oriented accommodations:
  - 1. Overnight lodging;
  - 2. Convention and conference facilities and meeting rooms;
  - 3. Restaurants, lounges and similar eating and drinking establishments; and
- B. Developed recreational facilities:
  - 1. Golf courses and clubhouses;
  - 2. Indoor and outdoor swimming pools;
  - 3. Indoor and outdoor tennis courts;
  - 4. Physical fitness facilities;
  - 5. Playing fields;
  - 6. Equestrian facilities;
  - 7. Interpretive centers;
  - 8. Wildlife observation shelters;
  - 9. Walkways, bike paths, jogging paths, equestrian trails, nature trails, ski trails and snowmobile trails;
  - 10. Marinas and boating facilities;
- C. Residential accommodations:
  - 1. Single-family dwellings;
  - 2. Townhouses;
  - 3. Time share projects;
  - 4. Living quarters for employees;
- D. Open space;
- E. Accepted agricultural and forestry practices as permitted in this Code;
- F. Facilities necessary for public safety and utility service within the destination resort;
- G. Other similar uses permitted in the underlying zone and consistent with the purposes of this Article.

88.045 - ACCESSORY USES

The following accessory uses shall be permitted provided they are ancillary to the destination resort and consistent with the purposes of this Article:

- A. Visitor-related transportation facilities excluding airports but including heliports and airstrips;
- B. Emergency medical facilities not exceeding 2,000 square feet;
- C. Storage structures and areas, including short-term recreational vehicle storage for resort visitors;
- D. Kennels as a service for resort visitors only;
- E. Recycling and garbage collection facilities;
- F. Maintenance shops and facilities;
- G. Dormitories;
- H. Commercial services and specialty shops designed to provide for the visitors to the resort:
  - 1. Specialty retail shops including but not limited to drug and sundries stores, clothing stores, book stores, craft studios, art galleries, gift shops, fast food and specialty food shops;
  - 2. Barber shops, beauty salons, tanning salons, massage studios and other similar personal services shops;
  - 3. Automobile service stations limited to fuel sales, incidental parts sales, minor repairs and minor maintenance;
  - 4. Banking and real estate offices;
  - 5. Other similar commercial services which provide for the needs of resort visitors and are consistent with the purposes of this Article.
- I. Theaters for live performances;
- J. Temporary uses, including temporary or seasonal fairs, festivals, and charity or promotional activities consistent with the purposes of this Article, provided that any temporary use must be approved as provided in Article 42;
- K. Other similar accessory uses consistent with the purposes of this Article.

88.050 - APPLICATION PROCEDURES AND CONTENTS

- A. Before submitting development plans for approval, an applicant proposing a destination resort shall conduct a pre-application conference with the Planning Department to obtain general information, guidelines, procedural requirements, advisory opinions, and technical assistance for the project concept.
- B. Following a pre-application conference, the applicant shall submit a preliminary development plan for review by the Planning Commission. Fifteen (15) copies of the preliminary development plan shall be submitted to the Planning Department along with a filing fee set by the Board of County Commissioners to defray costs incidental to the review process.
- C. The preliminary development plan shall contain the following elements:
  - 1. Illustrations and graphics to scale, identifying:
    - a. The location and total number of acres to be developed as a destination resort;
    - b. The subject area and all land uses adjacent to the subject area;
    - c. Types and general location of proposed development and uses, including residential and commercial uses, together with landscaping required by Article 65;
    - d. A general depiction of the characteristics of the site, including:
      - (1) Goal 5 resources on the County's comprehensive plan inventory;
      - (2) Riparian vegetation;
      - (3) Water areas, including streams, lakes, ponds and Division of State Lands recognized wetlands;
      - (4) Existing topography.
    - e. Proposed methods of access to the development, identifying the main vehicular circulation system within the resort and an indication of whether streets will be public or private, consistent with Article 71;
    - f. Preliminary parking plan consistent with Article 68;
    - g. Major trail systems;
    - h. The approximate location and number of acres proposed as open space, buffer area or common area. Areas

proposed to be designated as "open space," "buffer area" or "common area" should be clearly illustrated and labeled as such;

- i. List of proposed recreational amenities and approximate location;
  - j. A conceptual water and sewer facilities plan for the site consistent with Article 74 or Article 75, whichever is applicable;
  - k. A conceptual site drainage plan consistent with Article 73.
2. An open space management plan, including:
- a. Proposed deed restrictions that will assure that designated open space areas are maintained as open space in perpetuity;
  - b. Proposed conservation easements to protect Goal 5 "3A" sites, as required by Section 88.030(H) or Section 88.035(I), whichever is applicable;
  - c. For any Goal 5 "1C" resource sites on the destination resort site, an explanation of how the county's adopted management program will be implemented;
  - d. A description of measures intended to mitigate project impacts on fish and wildlife.
3. Further information as follows:
- a. A written statement addressing how the proposed destination resort satisfies the approval criteria of Section 88.060;
  - b. A description of any proposed alterations in the applicable development standards of Chapter 60, together with an explanation of why the standards as altered would be consistent with public safety, preservation of open space, and efficient provision of public facilities and services, and would not result in an adverse effect on adjacent land uses.
  - c. A description of the proposed method of providing all utility systems, including the preliminary or schematic location and sizing of the utility systems.
  - d. A description of the proposed order and schedule for phasing (if any) of all development including an explanation of when facilities will be provided and how they will be secured if not completed prior to the closure of sale of individual lots or units.

- e. An assessment of the impact of the destination resort on fish and wildlife, taking into account mitigation measures.

88.055 - PRELIMINARY DEVELOPMENT PLAN REVIEW PROCEDURE

- A. Review of the preliminary development plan shall be in accordance with the provisions of the Planning Commission Review Procedure (Article 26).
- B. The Planning Commission may attach any conditions (including requirements for improvement assurances under Article 15) it deems necessary to the preliminary development plan approval when reasonably related to applicable standards and criteria and supported by substantial evidence in the whole record.
- C. The Planning Commission shall issue a final order of its decision on the preliminary development plan.

88.060 - APPROVAL CRITERIA

The Planning Commission shall approve a preliminary development plan for a destination resort if it determines that all of the following criteria are met:

- A. The tract where the development is proposed is eligible for destination resort siting, as depicted on the acknowledged Destination Resort Overlay map.
- B. The development meets the criteria established in section 88.030 or 88.035, qualifying as a destination resort or a small destination resort, respectively.
- C. The uses included in the destination resort are either permitted uses listed in Section 88.040, or accessory uses listed in Section 88.045 that are ancillary to the destination resort and consistent with the purposes of this Article.
- D. The development will be compatible with surrounding land uses, particularly farming and forestry operations. A destination resort must not cause a significant change in farm or forest practices on surrounding lands or significantly increase the cost of accepted farm or forest practices.
- E. The development will not have a significant adverse impact on fish and wildlife, taking into account mitigation measures.
- F. The development complies with other applicable standards of the Land Development Code.

88.070 - FINAL DEVELOPMENT PLAN REVIEW PROCEDURE

- A. No later than 2 years following approval of the preliminary development plan, the applicant shall submit for review a final development plan that meets the requirements of Article 41 and addresses all changes or conditions required by the Planning Commission. If the preliminary development plan approved a phased development of the destination resort, the applicant shall submit the final development plan for the first phase of development within 2 years following approval of the preliminary development plan.
- B. The Planning Director shall review a final development plan pursuant to Article 41. The Planning Director shall approve a final development plan if it conforms to the approved preliminary development plan and incorporates all changes or conditions required by the Planning Commission.
- C. If the Planning Director finds that the final development plan is materially different from the approved preliminary development plan, the applicant shall submit an amended preliminary development plan for review. "Materially different," as used in this subsection, means a change in the type, scale, location, or other characteristics of the proposed development such that findings of fact on which the original approval was based would be materially affected. Submission of an amended plan shall be considered in the same manner as the original application, except that the review of an amended plan shall be limited to aspects of the proposed development that are materially different from the approved preliminary development plan. Submission of an amended plan must be accompanied by a filing fee in the same amount as for an original application.

88.075 - DURATION OF FINAL DEVELOPMENT PLAN APPROVAL

A final development plan approval shall become void if construction has not commenced within two years after the date the approval became final.

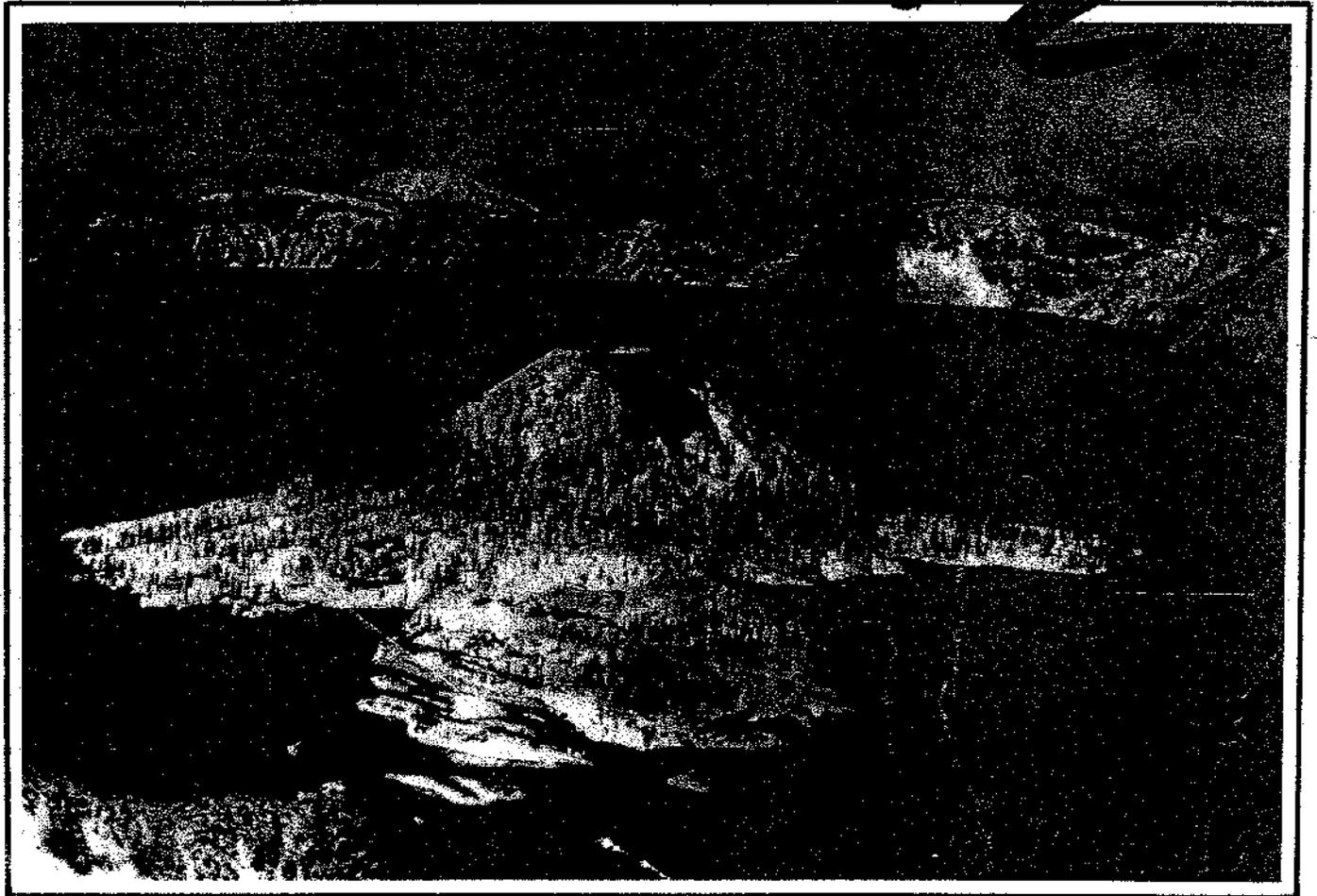


**KLAMATH COUNTY  
LAND DEVELOPMENT CODE  
ADOPTED: NOV. 25, 1981  
REVISED: DEC. 21, 1982  
REVISED: FEB. 29, 1984**



# LAND DEVELOPMENT CODE

12



- PART I — COMPREHENSIVE PLAN, POLICIES
- PART II — ATLAS
- PART III — LAND DEVELOPMENT CODE



ADOPTED: NOV. 25, 1981  
REVISED: DEC. 21, 1982  
REVISED: FEB. 29, 1984

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CHAPTER 1  
GENERAL PROVISIONS

ARTICLE 10 - ENACTMENT

SECTION 10.001 - TITLE

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

SECTION 10.002 - 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.

SECTION 10.003 - AUTHORITY

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

SECTION 10.004 - REPLACEMENT OF OTHER ORDINANCES

The Land Development Code, Ordinance 45.2, replaces all Zoning Ordinances and Subdivision Ordinances of Klamath County, Pelican City Zoning Ordinance No. 8, and Lakeshore Gardens Ordinance No. 20.

SECTION 10.005 - REPEALER

Klamath County Ordinances No. 17, 40, 8, 20, and 45.1 are hereby repealed in their entirety. All actions taken under the above-referenced ordinances shall remain in effect subject to their original conditions of approval. Ordinance 48 is hereby repealed in its entirety.

SECTION 10.006 - Effective date of application

When amendments are made to the County Comprehensive Plan and Zoning and Subdivision and Partition Ordinances or when ordinances are repealed, all applications receiving official preliminary approval, thus reaching their "effective date" prior to the date and time of that amendment or ordinance shall be processed under the earlier law, and all applications reaching their "effective date" on or after that date and time shall be processed under and meet the amended or new law; however, time extensions shall be processed under the ordinance or amendment currently in effect.

## ARTICLE 11 - DEFINITIONS

### SECTION 11.001 - 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. To carry out the purpose and intent of this Ordinance and alleviate any ambiguities, the words, phrases and terms included herein shall be deemed to have the meaning ascribed to them in this Article.

### SECTION 11.002 - DEFINITIONS INCLUDED BY REFERENCE

In addition to the definitions in this Article, the following are incorporated into this Article by reference, the same as though they were fully set forth before. If any definition in this Code conflicts with a definition included by reference, this Code shall prevail.

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

### "A"

ABUT OR ABUTTING - the same as adjoining.

ACCEPTED FARMING 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.

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.

ADJACENT - Two (2) or more lots or parcels of land having a common boundary or which are separated only by an alley, street, highway, recorded easement, or body of water.

ADJOIN OR ADJOINING - Two (2) or more lots or parcels of land which are in direct contact at some point or property line.

ADVISORY AGENCY - The Planning Commission which shall serve in such capacity to the Board of County Commissioners on all matters designated by the Board of County Commissioners.

**AIRCRAFT** - Any device used, or designed for flight in the air and capable of conveying persons or goods.

**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.

**AIRPORT, COMMERCIAL** - Any area of land or water which is used or intended to be used for the landing and taking off of aircraft and any appurtenant areas used or intended to be used for airport buildings or other airport facilities or right-of-way, together with all airport buildings and facilities located thereon. Airport includes heliport and helistop.

**AIRPORT AND HELIPORT, PERSONAL USE** - A personal-use airport or heliport as used in this section means an airstrip restricted except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by his 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. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.

**AISLE** - An access way to required vehicular parking spaces within a private, public or semi-public parking lot.

**ALLEY** - A public or private right-of-way permanently reserved as a means of vehicular access to the side or rear of properties abutting a street or highway.

**AMENDMENT** - A change in the wording, context or substance of this Ordinance, or a change in the zoning maps, which are part of this Ordinance when adopted in the manner prescribed by law.

**ANIMAL HOSPITAL** - A place where animals or pets are given medical or surgical treatment and are cared for during the course of such treatment. A kennel shall be considered incidental to an animal hospital.

**APARTMENT HOTEL** - A building or portion thereof used or containing a combination of three (3) or more dwelling units and six (6) or more guest rooms.

**ARCHITECTURAL FEATURE** - Open-work 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 - The net area, unless otherwise specified.

AREA, NET - 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.

ARTERIAL - A street which provides access between large areas.

AQUACULTURE - The cultivation or growing of crops in a water environment, those crops being algae, tropical fish, prawns, catfish, etc.

ASSESSOR - The County Assessor of Klamath County.

AUTOMOBILE IMPOUND YARD - Facilities designated or maintained by a governmental agency or the authorized agent thereof for the temporary storage of vehicles legally removed or impounded by a peace officer from public or private property.

AUTOMOBILE REPAIR GARAGE - A building enclosed on not less than three (3) sides, except when fronting on a dedicated street or alley, the building shall be enclosed on all sides by walls and/or doors and used for its servicing of motor vehicles, engine overhauling and automobile upholstery.

AUTOMOBILE SERVICE STATION - The premises from which are offered for sale, gasoline from pumps, tires, tubes, batteries and lubricants and which may offer in addition, such related services as battery charging, tube and tire repair, non-mechanical auto washing, lubrication services, minor motor tune-ups, brake service, wheel alignment, sale of such items as fuels, cigarettes, candy, cold drinks, and where permitted in the zone, the rental of trailer, cars or trucks from the premises where such areas are properly designated for the storage of such vehicles. The operation of an automobile service station shall not include major motor overhaul, body and fender work, painting, auto glass replacing, welding, tire recapping, auto dismantling, and the sale of two (2) or more trailers, cars, trucks and boats from the premises.

AUTOMOBILE WRECKING YARD - Any property where three or more vehicles not in running conditions or parts thereof, are: wrecked, dismantled, disassembled, or substantially altered for sale or not for sale, and not enclosed; or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof for a period exceeding three (3) months. Automobile wrecking yard shall not be construed to mean scrap yard junk or salvage and not include the incidental storage of inoperative or disabled vehicles in connection with the operation of an automobile repair garage, automobile body

and fender repair shop or automobile impound yard. Automobile wrecking yards must be licensed by both the State Motor Vehicle Department and the County Uniform Fire Code.

"B"

**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.

**BATCH PLANT, CONCRETE OR ASPHALT** - Means the storage, preparation and manufacturing of concrete or asphalt including customary equipment and accessory buildings. Also called Redi-Mix Plant.

**BLOCK** - An area of land within a subdivision which area may be entirely bounded by streets, highways or ways (except alleys), and the exterior boundary or boundaries of the subdivision.

**BLOCK LENGTH** - The distance, measured along all of one side of a street, which is between two intersecting or intercepting streets, or between an intersection or intercepting street and railroad right-of-way, water course, body of water or unsubdivided acreage.

**BOARD** - The Board of County Commissioners of Klamath County.

**BOARD OF COUNTY COMMISSIONERS** - The Board of County Commissioners of Klamath County.

**BOARDING HOUSE** - A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for five (5) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

**BODY AND FENDER SHOP** - A building enclosed on all sides by walls and/or doors used for the repair of motor vehicles including reforming of parts of the vehicle body, replacing fenders, doors, windows, upholstery, wheels, bumpers, radiators, headlights, etc., painting or repainting, aligning or realigning of component parts and such other work to cause such motor vehicles to be operable in accordance with the Vehicle Code of the State of Oregon.

**BUILDING** - Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, chattel or property of any kind.

**BUILDING, ACCESSORY** - A detached subordinate building, the use of which is incidental to that of the main building or to the principal use of the land and which is located on the same lot or parcel of land with the main building or principal use of the land.

**BUILDING HEIGHT** - The vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or

hip 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, MAIN** - A building in which is conducted a principal use of the lot or parcel of land upon which it is situated. In residential or agricultural zone, any dwelling shall be deemed to be a main building upon the lot or parcel of land on which it is situated.

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

"C"

**CABANA** - A stationary, lightweight structure which may be prefabricated or demountable with two (2) or more walls used adjacent to and in conjunction with a trailer to provide additional living space meant to be moved with the trailer.

**CAMP, YOUTH** - Any place with a program established for the primary purpose of providing an outdoor group living experience for children under twenty-one (21) years of age with social, spiritual, educational or recreational objectives.

**CAMPER** - A structure designed to be mounted upon a motor vehicle and to provide facilities for temporary human habitation for camping purposes.

**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.

**CANAL OR DRAINAGE CHANNEL** - Any existing or proposed open ditch, culvert or channel created, designed or constructed to transmit water for irrigation, drainage, or flood control purposes.

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

**CELLAR** - That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor is equal to or greater than the vertical distance from grade to ceiling.

**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.

**CENTERLINE** - The centerline of a right-of-way.

**CHILDREN'S HOME** - One (1) or more buildings used for the semi-permanent twenty-four (24) hour care of orphans or other children deprived of parental care, operated by a public agency or philanthropic or charitable organization, but shall not include commercial enterprises operated by such organizations or correctional institution.

**CLASS I STREAMS** - Means waters which are valuable for domestic use, are important for angling or other recreation, and/or used by significant members of fish for spawning, rearing, or migration routes. Stream flows may be either perennial or intermittent during parts of the year.

**CLASS II STREAMS** - Means any headwater streams or minor drainages that generally have limited or no direct value for angling or other recreation. They are used by only a few, if any, fish for spawning or rearing. Their principal value lies in their influence on water quality or quantity downstream in Class I waters. Stream flow may be either perennial or intermittent.

**CLUB, COUNTRY** - A private club organized and operated for social purposes and possessing outdoor recreational facilities, which may be included but not be limited to, golf courses, tennis courts or polo grounds.

**CLUB, PRIVATE** - Any building or premises used by an association of persons, whether incorporated or unincorporated, organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

**COACH, COMMERCIAL** - A vehicle, with or without motive power, designed and equipped for human occupancy for industrial, professional or commercial purposes.

**COACH, NONCOMMERCIAL** - A vehicle, with or without motive power, designed and equipped for human occupancy for classrooms and other noncommercial uses.

**COLLECTOR** - A street which connects individual land uses with arterial streets.

**COMMERCE** - The purchase, sale or other transaction involving the handling or disposition (other than that included in the term "industry") of an article, substance, commodity or service for livelihood or profit, including in addition, operation of mobile home parks, motels, public garages, office buildings, offices of doctors or other professionals, outdoor advertising signs and/or structures, public stables, recreation and amusement enterprises, places where commodities or services are sold or offered for sale either by direct handling of merchandise or by agreements to furnish them.

**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.

**COMMISSION or PLANNING COMMISSION** - The Planning Commission of Klamath County.

**COMMUNICATION EQUIPMENT BUILDING** - A building housing operating mechanical or electronic switching equipment of a telephone or similar communication system and personnel necessary for operation of such equipment.

**COMPREHENSIVE PLAN** - The Comprehensive Plan of Klamath County, Oregon.

**CONCERT** - A public performance of several musical compositions.

**CONDITIONAL USE PERMIT** - The granting of a permit to allow a specific use of land which use is denoted as the use permitted by rights of a conditional use permit and which use is considered appropriate to the area in which it is to be located and will not be detrimental to abutting properties. Uses listed in this Ordinance as being permitted by conditional use permit and that were in existence on the effective date of this Ordinance may continue without securing a conditional use permit, however, any extension or expansion of such use or structure related there shall be subject to the granting of a conditional use permit.

**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 included, in addition, a separate interest in other portions of such real property.

**CONTIGUOUS** - Two (2) or more lots or parcels of land which are in direct contact along most of a common property line. Public roads, County roads, and Oregon State Highways running between properties shall be deemed to render those properties non-contiguous.

CONVALESCENT HOME - The same as rest home.

CORNER LOT - A lot of which two or more sides abut a street.

COUNTY - The County of Klamath.

COUNTY CLERK - The County Clerk of Klamath County.

COURT - An open, unoccupied space, bounded on two (2) or more sides by the walls of a building. An inner court is a court entirely enclosed within the exterior walls of a building. All other courts are outer courts.

COVERAGE - That portion of a lot or building site which is occupied by any building or structure, regardless of whether said building or structure is intended for human occupancy.

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

CURRENT EMPLOYMENT - Current employment of land for farm use includes:

- A. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- B. Land planted in orchards or other perennials prior to maturity; and
- C. Any land consisting of woodlot of less than 20 acres contiguous to and owned by the owner of land specially assessed at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use.

"D"

DAIRY - Any premises where five (5) or more cows or goats, or any combination thereof equaling five (5) or more animals, are kept or maintained for the purpose of producing milk for sale.

DESIGN - Design of any street or alley alignments, grade or width, alignment of width of easements and right-of-way for drainage or irrigation purposes and sanitary facilities, and lot area, width or layout.

DEVELOPER - The same as subdivider, or if not creating a subdivision, a person who as a result of such subdivision proposed to, or does develop the land, whether it be for public or private purposes.

DEVELOPMENT - Any division of land through partitioning or subdivision, the carrying out of any building or mining operation, or the making of any material change in the use or appearance of any structure or land, or a change in the intensity of the use of land.

**DIRECTOR** - The Planning Director of Klamath County.

**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 (449.083) 468.740; a land fill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete, or other similar nondecomposable 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.

**DRAINAGE, STORM DRAINS, STORM WATER CHANNELS** - An existing, or proposed open ditch, culvert or open channel created, designed or constructed to transmit water for flood control or irrigation purposes.

**DRIVEWAY** - An access to required off-street parking.

**DUMP** - A place used for the disposal, abandonment, discarding, dumping, reduction, burial, incineration or other means of solid waste, garbage, trash, refuse or waste materials or substances.

**DUPLEX** - The same as dwelling, two-family.

**DWELLING, MULTIPLE** - A building or portion thereof, designed for occupancy of two (2) or more families, living independently of each other and containing two (2) or more dwelling units.

**DWELLING, ONE-FAMILY** - A detached building designed or used exclusively for occupancy by one (1) family and containing one (1) dwelling unit.

**DWELLING, TWO-FAMILY** - A building designed or used exclusively for occupancy by two (2) families and containing two (2) dwelling units.

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

**"E"**

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

**EDUCATIONAL INSTITUTION** - Public, parochial and other nonprofit institutions conducting regular academic instructions at kindergarten, elementary, secondary and collegiate levels, and including graduate schools, universities and nonprofit research institutions. Such institutions must either offer general academic instruction equivalent to standards prescribed by the State Board of Education or confer degrees as a college or university or undergraduate or graduate standing, or conduct research. Educational institution does not include schools, academies or institutions, incorporated or otherwise, which operate for a profit, nor does it include commercial or trade schools. Educational institution may include, however, but not be limited to, classrooms, athletic fields, gymnasiums, parking, observatories, etc.

**ELECTRICAL GENERATION FACILITY** - Hydro, solar, thermal, wind or biomass electrical generation facility.

**EXPLOSIVES** - Any explosive substance having a power equal to or greater than that of ordinary black powder, including, but not limited to, blasting caps, detonating, fulminating, or electric caps, gunpowder and dynamite, but shall not include fixed ammunition for small arms.

"F"

**FAMILY** - An individual or two (2) or more persons related by blood, marriage or adoption living together in a dwelling unit, which may also provide meals or lodging for not more than four (4) additional persons living in the same dwelling unit; or a group of not more than five (5) persons who need not be related by blood or marriage living together in a dwelling unit.

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

**FARM USE** - The current employment of land including that portion of such lands under buildings supporting accepted farming practices for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm Use" includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in Subsection (3) of ORS 215.203.

**FEDERAL GOVERNMENT** - The Government of the United States.

**FEED LOT** - An enclosure designed or used for the purpose of the concentrated feeding or fattening of livestock for marketing and does not include stock yards.

**FENCE** - Any structure forming a physical barrier which is so constructed to be impenetrable to persons and animals, or mark a boundary.

**FISH HATCHERY** - A place for hatching fish eggs.

**FLIGHT STRIP** - Any area of land or water which is used or intended to be used for the landing and taking off of aircraft, loading and unloading of passengers and cargo.

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

**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 the floors of a building measured from the exterior surface of the outside walls including all floors below ground level but exclusive of vent shafts, courts, accessory garages, cellars and other accessory uses, including but not limited to, stairways, stairwells, elevator shafts, etc.

**FLOOR AREA RATIO** - The numerical value obtained through dividing the above ground floor area of a building or buildings by the total area of the lot or parcel of land on which such building or buildings are located.

**FORESTRY** - The management and use for human benefit of the natural resources that occur on and in association with forest lands.

**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; water shed 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 in respect to which the owners of the adjoining lands have no right or easement of access to or from their adjoining lands, or in respect to which such owners have only limited or restricted right or easement of access and which is declared to be

such in compliance with the Streets and Highways Code of the State of Oregon, including principal roadways, interchange roadways connecting one freeway with another, and ingress and egress ramps connecting the freeway with other streets or highways, but not including frontage roadway.

**FUTURE STREET PLAN** - A proposed right-of-way as may be designated by the Planning Commission, or such other agency or authority as provided for herein, which street is necessary for the future subdivision of property, shown on the subdivision plats and/or maps, but that the present dedication and construction of such street is not warranted.

"G"

**GARAGE** - Any building, with not less than three (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.

**GEOHERMAL RESOURCE** - Fluid, steam or dry heat generally at a temperature sufficient for space heating (55°F) or as defined by ORS 523.015.

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

**GRADE GRADIENT** - The rate of vertical change of ground expressed as a percentage figure and determined by dividing the vertical distance by the horizontal distance.

**GREENHOUSE** - A building or structure constructed chiefly of glass, glass-like or translucent material, cloth or lath which is devoted to the protection or cultivation of flowers or other plants and shall be classified as a building in determining lot coverage.

**GUEST** - Any transient person who occupy a room for sleeping purposes.

**GUEST HOUSE** - Living quarters within an accessory building located on the same premises with a main building and occupied solely by members of the family or temporary guests. Such quarters shall have no kitchen and shall not be rented or otherwise used as a separate dwelling unit and shall be classified as a building in determining lot coverage.

**GUEST RANCH** - Any property operated as a ranch which offers guest rooms for rent or hire and which has outdoor facilities such as horseback riding, swimming or hiking.

"H"

**HALF STREET** - A portion of the ultimate width of a street, usually along the edge of a subdivision where the remaining portion of the street has been or could later be provided in another subdivision.

**HARDSHIP CASE** - A situation in which the health, safety or welfare of a community member could be protected or improved by allowing an additional home in an appropriate zone.

**HEALTH STUDIO OR SALON** - A studio or salon providing facilities and services to aid in personal health pursuits.

**HEDGE** - Trees, shrubs, or other vegetation so arranged to form a physical barrier or enclosure.

**HEIGHT** - See Building Height

**HELIPORT-COMMERCIAL** - Any helicopter landing area used, designed or intended to be used for the receiving or discharging of passengers and cargo and may include other appurtenant facilities permitted at a heliport other than a shelter for passengers.

**HELISPOT** - A site reserved for the landing and taking off of helicopters, loading and unloading of passengers and cargo.

**HIGHWAY** - As used in this ordinance, shall include a parkway, major or secondary highway or freeway.

**HIGHWAY, MAJOR** - A major highway shown as such on a master plan of streets and highway.

**HOME OCCUPATION** - An occupation or enterprise carried on within a dwelling for financial gain or support by a member of the immediate family residing within the dwelling.

**HOSPITAL** - An institution providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care of the sick or injured. Hospital includes sanitarium, sanatorium and institutions for the cure of chronic drug addicts and mental patients.

**HOTEL** - Any building or portion of any building with access provided through a common entrance, lobby or hallway to six (6) or more guest rooms, having no cooking facilities, and which rooms are designed, intended to be used, or are used, rented or hired out as temporary or overnight accommodations for guests.

**HOUSEHOLD PET** - Any domesticated animal commonly maintained in residence with men.

**HYDROPONICS** - The cultivation or growing of plants in a nutrient solution.

"I"

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.

INDUSTRY - The manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity or any other treatment thereof in such a manner as to change the form, character or appearance thereof, including storage elevators, truck terminals and the like, warehouses, wholesale storage and other similar types of endeavors.

"J"

JUNK AND SALVAGE YARD - Any premises used for the keeping or storage of junk, including but not limited to, iron and scrap metals, paper, rags, glass, wood and similar materials and shall include the dismantling of machinery or the storage or keeping for sale of parts and equipment resulting from dismantling or wrecking operations on said property or elsewhere. Junk and salvage yard shall also include the baling of cardboard, cardboard boxes, paper and paper cartons.

"K"

KENNEL, COMMERCIAL - Any lot or premises on which dogs or other animals are kept for boarding, training and selling for compensation.

KENNEL, NONCOMMERCIAL - Any lot or premises on which four (4) or more dogs or other animals, at least four (4) months of age, are kept, boarded or trained.

KITCHEN - Any space within a building designed, intended to be used or used for the cooking or the preparation of food.

"L"

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 CHANGE - Land use change as used in the Goal 5 portion of the planning process is defined as a change in status through major or minor land partitions, variances, change of CLUP classification, change of zone, subdivision, or conditional use permit or actions for uses not permitted outright in current zoning designations.

LEGISLATIVE - A term applied to the action of public administrative officers which predetermine what the law shall be for the regulation of future issues falling under its provisions. This is to be distinguished from a judicial act, which is a determination of what the law is in relation to some existing issue (s).

**LIVESTOCK** - Domestic animals of types customarily raised or kept on farms for profit or other purposes.

**LOADING SPACE** - An area, other than a street or alley, on the same lot with a building or group of buildings which is permanently reserved and maintained for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

**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, measured in a horizontal plane included within the lot lines of a lot or parcel of land. Portions of a lot or parcel of land which have a slope of four to one (4 feet horizontal to 1 foot vertical) or steeper, shall not be included in the computation of lot area. Such provisions shall not apply to real property within zones requiring lot areas of 20,000 square feet or more.

**LOT, CORNER** - A lot or parcel of land situated at the intersection of two (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 one hundred thirty-five degrees.

**LOT DEPTH** - The horizontal distance measured 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, INTERIOR** - A lot or parcel of land other than a corner lot.

**LOT, ISLAND** - A parcel or lot which is completely surrounded on all four sides by another lot or parcel.

**LOT, KEY** - An interim lot adjoining the rear lot line of a reverse corner lot.

**LOT LINE, FRONT** - In the case of an interior lot, the lot line separating the lot from the street and 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 ten (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, REVERSED CORNER** - A corner lot, the side lot line of which is substantially a continuation of the front lot line of a lot or parcel of land which adjoins the rear lot line of said corner lot.

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

**LOT, THROUGH** - An interior lot having a frontage of two (2) streets and/or highways.

**LOT WIDTH** - The horizontal distance between the side lot lines measured at right angles to the lot depth line at a distance midway between the front and rear lot lines.

"M"

**MAP** - A final diagram, drawing or writing concerning a major partition.

**MARGINAL ACCESS STREET** - A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

**MARQUÉE** - A permanent, roofed structure attached and supported by the building and projecting over public or private property.

**MEDICAL CLINIC** - Any facility providing physical or mental health service, and medical or surgical care of the sick or injured but shall not include inpatient or overnight accommodations. Medical clinic includes health center, health clinic and doctors' offices.

**MEDIAN** - That portion of a divided highway separating the traveled ways for traffic progressing in opposite directions.

**MICROWAVE STATION** - A building housing equipment necessary for the receiving, amplifying or transmitting of microwave signals, including necessary antenna systems along a communications route which employs microwave frequencies assigned by the Federal Communications Commission.

**MOBILE HOME** - A structure constructed for movement on the public highway, and for site delivery and has sleeping, cooking, and plumbing facilities, is intended for human occupancy and is being used for residential purposes.

**MOBILE HOME PARK** - Any place where four (4) or more mobile homes are parked within five hundred (500) feet from one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

**MODULAR HOME** - A structure which is partially assembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit. Also called prefabricated home.

**MOTEL** - One (1) or more buildings containing guest rooms or dwelling units, with one (1) or more such rooms or units having a separate entrance leading directly from the outside of the building or from an inner court. Such facilities are designed, used, or intended to be used, rented or hired out for temporary or overnight accommodations for guests, and are offered primarily to automobile tourists or transients by signs or other advertising media. Motel includes auto courts, motor lodges, tourist courts and motor hotels.

**MOTOR HOME** - A motor vehicle originally designed or permanently altered and equipped for human habitation or to which a camper has been attached and which is not used to transport property on its own structure other than property used for human habitation or camping purposes. House car includes a camp car.

**MOTOR VEHICLE** - A self-propelled device licensed by the State of Oregon by which any persons or property may be propelled, moved, or drawn upon a street or highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

#### "N"

**NOISE EXPOSURE FORECAST (NEF)** - A measure of the total noise exposure near an airport; it is derived from effective perceived noise levels (EPNL) contours for individual aircraft by including considerations of mix of aircraft, number of times by operations, runway utilization, flight path, and operating procedures. The EPNL contours which comprise the NEF contour are physical measures derived from instantaneous measurements based on an approximation to subjective evaluations of "noisiness" and corrected for pure tones and for the duration of the noise.

**NONCONFORMING USE** - Any use of land or property that was lawfully established and in compliance with all applicable ordinances and laws at the time this Code or any amendment thereto became effective but which, due to the application of this Ordinance or any amendment thereto, no longer complies with all of the applicable regulations and standards of the zone in which the use is located.

**NONCONFORMING STRUCTURE** - Any structure or improvement that was lawfully established and in compliance with all applicable laws at the time this Code or any amendment thereto became effective, but which, due to the application of this Ordinance or any amendment thereto, no longer complies with all the applicable regulations and standards of the zone in which the structure or improvement is located.

**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 approve military airport layout plan; any other FAA planning document, or military service's military airport planning document.

**NURSERY SCHOOL** - A school providing day care for pre-elementary school age children.

**NURSING HOME** - The same as rest home.

"O"

**OFFICIAL MAP** - Any map adopted by the Board of Commissioners which has depicted thereon existing or proposed street or highway location and designation, land use, zoning, building and setback lines, house numbering and such other information pertaining to the development of land, a copy of which is on file in the office of the County Clerk, County Engineer and Planning Director.

**ORDINANCE** - An ordinance duly enacted by the legislative authority having jurisdiction.

**OUTDOOR ADVERTISING** - The use of a sign or signs soliciting public support or directing the public attention to the sale, lease, hire, or use of any objects, products, services or functions which are not produced, sold or otherwise available on the premises where such sign is erected or maintained.

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

"P"

**PARCEL** - A unit of land created by a partitioning of land.

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

**PARKWAY** - A parkway shown as such on a master plan of streets and highways.

**PARTIES TO THE HEARING** - All persons whose names appear in the Log of Interested Parties, and all individuals, corporations, partnerships, or any other groups who appear either in person or who submit written testimony to a public hearing.

**PARTITION** - The act of partitioning land or an area or tract of land which has been partitioned.

**PARTITION LAND** - A division of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include lien foreclosures, divisions of land resulting from foreclosures of recorded contracts for the sale of real property, and divisions of land resulting from the creation of cemetery lots; and "partition land" does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by the Land Development Code. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

**PARTITION, MAJOR** - A partition which includes the creation of a road or street.

**PARTITION, MINOR** - A partition that does not include the creation of a road or street.

**PATIO** - A roofed area permanently open on not less than three (3) sides and used solely for outdoor living. Said patio will be considered to be open when enclosed by screening or any structure or structural material forming a physical barrier so not less than fifty (50) percent of the vertical surface is permanently open to permit the transmission of light, air and vision through said surface in a horizontal plane but which is unpenetrable to persons and animals.

**PEDESTRIAN WAY** - A right-of-way reserved for pedestrian traffic.

**PERSON** - Any individual, firm, co-partnership, 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.

**PETROLEUM BULK PLANT** - Any premises used for the wholesale distribution and storage of gasoline, oil or petroleum but shall not include the storage of liquid petroleum gas, a tank farm, or be connected to a pipe line constituting, in effect, a petroleum terminal.

**PLANNING DIRECTOR** - The Planning Director of Klamath County.

**PLANNED UNIT DEVELOPMENT** - A development approved by the proper authorities based on a comprehensive and complete design or plan denoting all forms of uses of the land affected by the plan.

**PLAT, FINAL** - The final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning the subdivision which the subdivider submits for approval and intends to record in final form.

**PLAT, PRELIMINARY** - The map, drawing, diagram, replat or other writing submitted with an application to subdivide land.

**PORTE-COCHERE** - An accessory structure open on three (3) sides and attached to the side or front of a building through which cars pass and is for the loading and unloading of passengers from an automobile. A porte-cochere is not a carport or garage nor may it be used to satisfy off-street parking requirements.

**POULTRY** - Domestic birds and/or fowl customarily raised or kept on a farm for profit or other purposes.

**POUND** - A place used for the temporary detention of stray or unlicensed animals having facilities for four (4) or more animals.

**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.

**PRESERVE, HUNTING AND FISHING** - An area used primarily for regulated hunting or fishing in accordance with applicable statutes.

**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 elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**PROFESSIONAL HOME OFFICE** - An office contained within the residence of a member of a profession which is used by said professional in the provision of his services.

**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 or 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; or
- G. For the disposal of storm water runoff.

**PUBLIC UTILITY, RESOURCE ORIENTED** - A power generating plant requiring or utilizing a fuel source which is found specifically on-site to the facility, including but not limited to solar, geothermal, wood, hydro, wind and fossil fuel.

**PUBLIC UTILITY SERVICE CENTER** - Any buildings or premises used for the administration of public utility repair, maintenance and installation crews including parking for vehicles, but not including warehouses or storage yards.

**PUBLIC UTILITY SERVICE YARD** - Any buildings or premises used for the office, warehouse, storage yard, or maintenance garage of a public utility including microwave repeater stations when incorporated as part of the service yard use.

"Q"

**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.

**QUARRY, NONCOMMERCIAL** - A quarry where not more than ten (10) percent of the material by volume of the quarry site can be made available to the public. The meaning of public shall not include federal, state, city and county governments.

**QUASI-JUDICIAL** - A term applied to the action of public administrative officers who investigate facts and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature.

"R"

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

**RECREATION CAMP** - An area containing one or more permanent buildings used occasionally or periodically for the accommodation of members or guests of associations or groups for recreational, educational, religious or therapeutic purposes.

**RESIDENCE** - One (1) or more rooms designed, used or intended to be used as permanent living quarters for a family and not as temporary or overnight accommodations.

**REST HOME** - A home offering or providing lodging, meals, nursing, dietary, or other personal services to convalescents, invalids or aged persons but not including surgery or the care of persons with contagious or communicable diseases. Rest home includes convalescent home and home for the aged.

**RETIREMENT LOT** - A lot which may be separated from contiguous property under the same ownership for at least 5 years with a partition application for the purpose of creating or separating a retirement homesite for a farmer or rancher in an EFU or Forestry zone. The retirement lot shall be exempt from the minimum lot size requirement of the EFU and Forestry zones. The remainder of the retirement lot shall not be further partitioned for a similar purpose for a period of 15 years.

**REVERSED CORNER LOT** - A corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.

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

**ROADWAY** - The portion or portions of street right-of-way developed for vehicular traffic.

A. **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 forestry, mining or agricultural purposes. As defined here, the use of land for a forestry, mining, or agricultural purpose means the primary, but not the casual or incidental use of land for this purpose.

B. **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.

**ROOM** - An unsubdivided portion of the interior of a dwelling excluding bathrooms, kitchens, closets, hallways and service porches.

**ROOM, GUEST** - One (1) room which does not contain cooking facilities and is designed, used or intended to be used as temporary sleeping accommodations for any person.

**ROOMING HOUSE AND BOARDING HOUSE** - A lodging house, or other building or structure maintained, advertised, or held out to the public as a place where sleeping or rooming accommodations are furnished to the whole or any part of the public whether with or without meals. Rooming house includes fraternity and sorority houses.

**RUNWAY** - A defined area on an airport prepared for landing and take-off of aircraft along its length.

**RUNWAY 7-25** - A visual Utility Runway located at the City of Klamath Falls Municipal 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 Municipal Airport/Kingsley Field, aligned in a southeast direction and designated as a crosswind runway.

**RUNWAY 18-36** - A Visual Utility Runway located at the City of Klamath Falls Municipal 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 Municipal Airport/Kingsley Field, aligned in a northwest direction and designated as a primary runway.

**RURAL AREA** - All land located outside the Long-Term Urban Growth Boundaries shown in the Comprehensive Master Plan.

**RURAL COMMUNITY** - Rural communities are nearly identical in function as rural services 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.

"S"

**SANITARIUM AND SANATORIUM** - The same as a hospital.

**SCENIC VIEW AREA** - The principal line of vision from a recognized viewpoint. (The viewpoints are inventoried and scenic view areas are defined in the Significant Resource Map.)

**SCHOOL, TRADE** - Private schools offering instruction in the technical, commercial and/or trade skills, such as real estate schools, business colleges, electronic schools, automotive and aircraft technician schools, and similar commercial establishments.

**SECRETARY OF THE PLANNING COMMISSION** - The Planning Director of Klamath County, or his deputy.

**SEPARATOR** - A device used to separate traffic, utilities, waterways, etc.

**SIDEWALK** - A pedestrian walkway with a permanent surface.

**SIGN, ACCESSORY** - Any sign other than outdoor advertising.

**SIGN** - Any method of display or part thereof, for visual communication that shall include 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 shall include accessory signs and outdoor advertising, but shall 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.

**SIGN AREA** - The field of the sign, not including structural supports and not including the face of the building, except that portion which forms the field.

**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.

**SOLAR** -

- A. **Solar heating hours:** Those hours between 3 hours before and 3 hours after the sun is at its highest point above the horizon on December 21.
- B. **Collector surface:** Any part of a solar collector that transmits incident solar radiation for passive solar space heating or absorbs incident solar radiation for use in collector's energy transformation.

- C. Incident solar radiation: Solar energy falling upon a given surface area.
- D. Minimum solar collector energy contribution standards: The minimum for solar domestic or pool water heating shall be 50 percent and for solar space heating 20 percent during solar heating hours. The governing body shall approve the minimum for other particular uses.
- E. Shaded: A solar collector is deemed shaded if vegetation or structures block the incident solar radiation that would otherwise reach its collector surface during solar heating hours.
- F. Solar structure: A structure which has passive solar design or active solar collection devices which meet minimum solar energy contribution standards.
- G. Passive solar space heating: Heating of the interior of a structure by a direct, indirect or isolated gain system consisting of glazing and thermal mass which stores energy and releases energy within the structure by radiation, conduction, and/or natural convection.

**SOLID FILL** - Any non-combustible materials, insoluble in water, such as soil, rock, sand or gravel, that can be used for grading land or filling depressions.

**SOLID FILL PROJECT** - Any operation of a parcel of land where more than one thousand (1,000) cubic yards of solid fill materials are deposited for any purpose including the grading or reclaiming of land.

**SOLID WASTE** - All putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure; vegetable or animal solid and semisolid wastes, dead animals and other wastes; but the term does not include:

- A. Environmentally Hazardous Wastes as defined in Section 1, Chapter 699, Oregon Laws 1971.
- B. Materials used for fertilizer or for other productive purposes or which are salvageable as such materials and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

**STATE** - The State of Oregon.

**STOCKYARD** - A yard for stock in which cattle, sheep, goats, swine, or horses are kept temporarily for slaughter, market or shipping.

**STORY, HALF** - A story with at least two (2) of its opposite sides situated immediately under a sloping roof, with the floor area of said story not in excess of two-thirds (2/3) of the floor area of the floor immediately below it.

**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, excluding a private way that is created to provide ingress or egress in conjunction with the use of such land for forestry, mining or agricultural purposes.

**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 Commissioners for disposal under conditions approved by the Planning Commission.

**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 erected, which requires a fixed location on the ground, or is attached to something having a fixed location on the ground.

**STRUCTURE, ADVERTISING** - A structure existing, erected or maintained to serve exclusively as a stand, frame or background for the support display of signs.

**SUBDIVIDE** - The division of an area or tract of land into four (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.

**SUBDIVIDER** - Any person who causes land to be subdivided into a subdivision for himself or for others, or who undertakes to develop a subdivision, but does not include a public agency or officer authorized by law to make subdivisions.

**SUBDIVISION** - The act of subdividing land or an area or a tract of land which has been subdivided.

"U"

**URBAN AREA** - All lands located within the Long-Term Urban Growth Boundaries shown in the Comprehensive Master Plan.

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

USE, ACCESSORY - An activity, facility, or structure which is incidental and subordinate to a permitted use established on the same lot and which may be necessary for the successful operation of said permitted use.

"V"

VACATION TRAILER - A vehicle or structure equipped with wheels for highway use that is intended for temporary human occupancy, is not permanently placed, used for residential purposes and is being used for vacation and recreational purposes.

"W"

WATER SUPPLY AND TREATMENT FACILITY - Land and buildings used for storage and distribution of water including pumping stations, reservoirs and storage tanks, and treatment facilities needed to provide water for domestic purposes.

"Y"

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. The depth of a required front yard shall be a specified horizontal distance between the front lot line, where the front lot line is co-terminus with the property line of a fully widened street or highway, or the ultimate street line of a partially widened street or highway and a line parallel thereto on the lot or parcel of land.

YARD, REAR - A yard extending across the full width of the lot or parcel of land. The depth of a required rear yard shall be a specified horizontal distance between the rear lot line and a line parallel thereto on the lot or parcel of land.

YARD, SIDE - A yard extending from the required front yard, or the front lot line where no front yard is required to the required yard or to the rear lot line where no rear yard is required. The width of a required side yard shall be a specified horizontal distance between each side lot line and a line parallel thereto on the lot or parcel of land. Where a side yard is bounded by a street or highway, the width of such required side yard shall be a specified horizontal distance between the side lot line on the street or highway side, where said side lot line is co-terminus with the street line of a fully widened street or highway, or the ultimate street line parallel thereto on the lot or parcel of land.

"Z"

**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, as now or hereafter published by the Federal Aviation Administration (FAA) of the U. S. Department of Transportation.

**ZOO** - A zoological garden or collection of living animals maintained and operated for public display.

## ARTICLE 12 - ADMINISTRATION

### SECTION 12.001 - SCOPE AND COMPLIANCE

- A. Proposed Uses. The provisions of this Code are applicable to all lots, buildings, and structures and uses of land to be created, established, constructed or altered subsequent to the adoption of this Code unless specifically exempted by this section.
- 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 an alteration, expansion or modification to an existing use is proposed which requires a land use decision pursuant to this Code. All variances, conditional use permits, or other permits granted pursuant to the provisions of duly enacted ordinances shall remain in effect and shall be subject to all the conditions and provisions governing such variances, conditional use permits or other permits, unless otherwise revoked, pursuant to applicable provisions contained herein.

### SECTION 12.002 - CONSISTENCY WITH PLANS AND LAWS

- A. Actions initiated under this Code shall be consistent with the adopted Klamath County Comprehensive Plan and with applicable county, state, and federal laws and regulations as these plans, laws, and regulations may now or hereafter provide.
- B. Whenever reference is made to any portion of this Code, or of any other law or ordinances, the reference shall apply to all amendments and additions now or hereafter made.
- C. If any provisions or portions of any provisions 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 provision to other persons or lands shall not be affected.
- D. The rights granted by any variance, conditional use permit, temporary use 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 contained or maintained in accordance with the provisions of this Code.
- E. 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 non-conforming 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.

### SECTION 12.003 - OFFICIAL ZONING MAPS

The various 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.

### SECTION 12.004 - 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 such 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.
- 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-of-way and areas used solely for the purpose of accommodating tracks, 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 lines and poles, telephone lines and poles and gas transmission lines shall be deemed to be zoned to permit the continued use as 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 by the Planning Commission as a zone correction per Section 48.004B of this Code.

SECTION 12.005 - 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.

SECTION 12.006 - RULES OF INTERPRETATION

A. Effect of Provisions

1. Minimum Requirements - The regulations and standards set forth in this 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 these regulations impose a greater restriction upon the use of land that are imposed or required by other ordinances, rules, or regulations, these regulations shall control.

B. Language

1. Construction - When used in this Code, the words "shall," "will," and "is to" 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. Number of Days - Whenever a number of days is specified in this Code, or in any permit, condition of approval or notice issued or given as set forth in this Code, such number of days shall be deemed to be consecutive calendar days, unless the number of days is specifically identified as business days.
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.

5. Gender - Whenever this Code refers to the male sex, e.g. "he," "him," or "his," it shall be interpreted to include the female form of the pronoun.
- C. Procedure of Interpretation - If questions arise from persons or bodies charged with administering this Code concerning the content or application of the text of the Land Development Code, it is the duty of the Klamath County Legal Counsel to ascertain all pertinent facts, and make a determination, within a reasonable time frame.

## ARTICLE 14 - ENFORCEMENT

### SECTION 14.001 - PURPOSE

This Article establishes procedures for enforcement of the provisions of this Code and other duly adopted ordinances under the jurisdiction of the Building department. The enforcement procedures set forth are intended to assure due process of law for violations of those codes.

### SECTION 14.002 - ENFORCEMENT RESPONSIBILITY

The responsibility for the enforcement of the provisions of the Land Development Code and Building Department Ordinances 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 Officers - The Planning Director, Public Works Director, Building Official or their designee are to act as the Code Enforcement Officer, to enforce this Code and Building Department Ordinances, and all their provisions. The Code Enforcement Officer has the following responsibilities and powers in the enforcement of this title.
  1. To review with affected individuals the provisions of applicable County Ordinances through initiation of administrative hearings and other methods to support 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 or Building Department Ordinances.

### SECTION 14.003 - CITATION

The Code Enforcement Officer may issue a citation to any person who violates any of the provisions of their applicable ordinances. Penalties for violation shall be in accordance with Section 14.012 of this Code.

### SECTION 14.004 - REVOCATION OF APPROVAL AND FORFEITURE OF BONDS

The Code Enforcement Officer may initiate proceedings by citation to appear 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.

The Code Enforcement Officer may initiate procedures to forfeit all or a portion of a bond or cash deposit.

#### SECTION 14.005 - 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 owner of affected property, etc.
- B. The Code Enforcement Officer is to notify the violator by citation of intention to enforce or revoke at least ten (10) days prior to an Enforcement Hearing. Such citation is to 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 non-compliance.
  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 is to notify the person posting the bond or cash deposit of the intention to cause forfeiture of the bond or deposit at least twenty (20) days prior to a forfeiture hearing. Such notice is to 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 non-compliance.

#### SECTION 14.006 - 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. Hearing Body - Hearings to be held before the Klamath County Hearing Officer.
- B. Conduct of Hearing - The Hearing Officer is to conduct an Enforcement Hearing as follows:
  1. The Hearing Officer is to hear sworn testimony and consider other evidence concerning the conditions constituting cause to enforce this Code, or Building Department Ordinances, revoke approval or forfeit bond.
  2. Respondents to enforcement actions may be present at such hearing, may be represented by a person of his 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 from time to time.
  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 Ordinance, 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 Hearings Officer shall issue his order to the respondent.

#### SECTION 14.007 - SERVICE OF CITATION

Any notice required by the provisions of this chapter is to be given by the Code Enforcement Officer.

- A. A copy of the citation is to be either served personally or by mail, postage prepaid, certified mail, return receipt requested, to the owner of the affected premises as shown on the last equalized assessment role. If no address can be found or is known to the Code Enforcement Officer, then the citation is to 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.
- B. A copy of the notice is to be recorded in the office of the County Recorder of Klamath County.

#### SECTION 14.008 - RELEASE OF CITATION

Where a citation has been served pursuant to Section 14.003 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 record a Release of the First Citation.

SECTION 14.009 - INTERFERENCE PROHIBITED

No person shall hinder, interfere with or impede the Code Enforcement Officer in the performance of duties assigned by the Code, or other codes and ordinances of the County.

SECTION 14.010 - APPEALS

An order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing, in accordance with procedures set forth in Chapter 3, Article 33 of this Code.

SECTION 14.011 - 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 Hearing Officer pursuant to 14.006 of this Code.

SECTION 14.012 - PENALTIES

Any person, firm, corporation or other entity who violates any of the provisions of this Code or applicable Building Department Ordinances shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars (\$100) for each day of violation where the offense is a continuing offense but such fine may not exceed one thousand dollars (\$1,000) or a fine of five hundred dollars (\$500) where the offense is not a continuing offense. District Court and Circuit Court shall have concurrent jurisdiction over prosecutions for violations of this Code.

SECTION 14.013 - 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 or applicable Building Department Ordinances, 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, batement, 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.

CHAPTER 2  
REVIEW PROCEDURES  
ARTICLE 20 - BASIC PROVISIONS

SECTION 20.001 - PURPOSE OF REVIEW PROCEDURES

The purpose of this chapter is to establish uniform procedures 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. It is the long term purpose of these standardized procedures to increase the overall speed by which land use decisions are reached.

SECTION 20.002 - TYPES OF REVIEW PROCEDURES

All reviewing authorities A through E shall be governed by the Comprehensive Plan policies. In order to achieve the purposes set forth above, five types of review procedures are established:

- A. **Planning Director Review Procedure** - This procedure is provided for reaching objective, ministerial decisions requiring no discretionary judgment, but only the application of measurable standards to specific fact situations. The land use or development proposals reviewed under this procedure will have minimal or no effect on surrounding lands or persons.
- B. **Hearing Officer Review Procedure** - This procedure is provided for reaching objective, ministerial decisions requiring some discretionary judgment in the application of measurable standards to specific fact situations where the land use or development proposal will have some impact on adjacent lands and persons.
- C. **Land Partitioning Review Board Procedure** - This procedure provides for reaching decisions where discretion is required either to apply subjective, qualitative criteria or to weigh the merits of competing positions. The land use or development proposals review under this procedure will have limited effects on adjacent lands and persons.
- D. **Planning Commission Review Procedure** - This procedure provides for reaching complex decisions where discretion is required either to apply subjective, qualitative criteria or to weigh the merits of competing positions. The land use or development proposals reviewed under this procedure will have significant effects on a broad range of lands and persons.

E. Board of Commissioners Review Procedure - This procedure provides for reaching complex decisions regarding county land use policy.

## ARTICLE 22 - PLANNING DIRECTOR REVIEW PROCEDURE

### SECTION 22.001 - PURPOSE

The purpose of the Planning Director Review Procedure is to provide for the ministerial review of certain land use and development decisions. It is the further purpose of this procedure to provide for the expeditious review of development subject to Planning Director review.

### SECTION 22.002 - APPLICATION

The following development shall be subject to Planning Director or his designee review:

- A. Site plan approval.
- B. The establishment of a temporary use.
- C. Time extensions on a tentative (major/minor) land partition approval.
- D. Time extension on a preliminary subdivision plat approval.
- E. Application for a minor partition not in an agriculture zone.
- F. Administrative variance.

### SECTION 22.003 - PUBLIC HEARING AND NOTICE

Planning Director review shall be conducted without a public hearing. Persons residing or owning land in the vicinity of the property subject to Planning Director review shall not receive notification, subject to the following exception. In the case of a temporary use or administrative variance reviewed by the Planning Director, he shall mail or otherwise deliver notice of his decision regarding the temporary use to those persons with property located within 250 feet of the subject property. In the case of a minor partition, property owners within 100 feet of the subject property and affected agencies shall be notified. The Planning Director shall set a date for his review of minor partitions as provided by Chapter 3, Article 32 of this Code.

### SECTION 22.004 - REVIEW AND DECISION

- A. The Director shall review the application and determine its compliance with applicable codes and ordinances. Notice of the determination of the Director shall be mailed to the applicant. The Planning Director may refer minor partitions to the Review Board at his discretion.

B. A determination of noncompliance shall prohibit the applicant from undertaking the proposed development.

SECTION 22.005 - APPEAL

A determination of noncompliance may be appealed within ten (10) days of mailing of notification in accordance with procedures set forth in Chapter 3, Article 33 of this Code.

ARTICLE 24 - HEARING OFFICER REVIEW PROCEDURE

SECTION 24.001 - PURPOSE

The purpose of the Hearing Officer Review Procedure is to provide for the conduct of evidentiary hearings in a manner which will provide uniformity for all persons appearing in the above hearing and will provide a system for conducting hearings as expeditiously as possible, insuring impartiality and allowing parties an opportunity to be heard, to present and rebut evidence, to insure against ex-parte contacts and to create a record of hearing providing findings of fact and conclusions of law.

SECTION 24.002 - HEARING OFFICER AND DEPUTY: APPOINTMENT, QUALIFICATIONS AND DUTIES

- A. The Board of County Commissioners shall appoint the Hearing Officer to serve said office at the pleasure of the Board of County Commissioners. The Hearings Officer may appoint a Deputy and such other personnel as is authorized, subject to the confirmation of 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 office and shall have such training and experience as will qualify them to conduct hearings on land use applications and to discharge any other functions conferred upon them.
- C. The Hearings Officer shall act on behalf of the Board of County Commissioners in hearing and deciding Comprehensive Land Use Plan changes not involving resource zones, Zone Changes, Conditional Use Permits and Variances. The Hearings Officer shall receive and examine available information, conduct public hearings and prepare a record thereof as necessary to approve, modify or deny applications. The Deputy Hearings Officer shall assist the Hearings Officer in the performance of the duties conferred upon him and shall, in the event of the absence or the inability of the Hearings Officer to act, have all the duties and powers of the Hearings Officer.
- D. The Hearings Officer and Deputy shall review enforcement citations per Chapter 1, Article 14, and all of its sections.

SECTION 24.003 - RULES AND REGULATIONS

- A. The Hearings Officer shall follow the Klamath County Internal Rules and Procedures for the conduct of hearings before him. Such rules and procedures shall be in writing and copies made available upon request to all applicants and interested parties at any hearings to be conducted.

- B. Rules and regulations shall be in conformance with the other provisions of this Article and shall additionally guarantee parties an opportunity to be heard, to present and rebut evidence, to have a record made and findings of fact made on which the decision is based.
- C. The Hearings Officer may continue any item when in his discretion additional time or information are needed.

#### SECTION 24.004 - APPLICATION

- A. Change of Comprehensive Plan designation not involving resource zones.
- B. Change of zone designation.
- C. Conditional Use Permits.
- D. Variances.

#### SECTION 24.005 - PUBLIC HEARING AND NOTICE

The Planning Director shall set a date for a noticed public hearing for Hearings Officer Review as provided by Chapter 3, Article 32 of this Code.

#### SECTION 24.006 - REVIEW AND DECISION

Public hearings conducted by the Hearings Officer shall be called to order at the time and date specified in the public notice. The Hearings Officer shall open the hearing, proceed to take testimony, and upon good cause shown by either party, continue the hearing from time to time to a date certain without further notice. The Hearings Officer, at his discretion, may render a decision upon conclusion of a hearing or may render a decision within fifteen (15) days of the conclusion of a hearing. The decision of the Hearings Officer shall be to approve, conditionally approve, or disapprove the requested application and shall incorporate findings of fact in support of such decision. The Hearings Officer shall prepare an order stating his decision and this order shall be filed with the Board of County Commissioners and a copy thereof mailed to the applicant at the address shown on the application within 15 working days after a decision is made.

#### SECTION 24.007 - APPEAL

An order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with procedures set forth in Chapter 3, Article 33 of this Code.

ARTICLE 25 - LAND PARTITIONING REVIEW BOARD PROCEDURE

SECTION 25.001 - PURPOSE

The purpose of the Land Partitioning Review Board Procedure is to ensure that land use and development proposals which will have limited effects on surrounding persons and lands are in compliance with this Code and all other applicable codes and ordinances.

SECTION 25.002 - LAND PARTITIONING REVIEW BOARD

The Land Partitioning Review Board shall be a board composed of the County Engineer, Chairman of the Planning Commission, and the County Planning Director, or their authorized representatives.

SECTION 25.003 - APPLICATION

- A. Minor partitions, when referred by Planning Director
- B. Major Partitions

SECTION 25.004 - PUBLIC HEARING AND NOTICE

The Planning Director shall set a date for a noticed public hearing on an application for a land partition in accordance with Chapter 3, Article 32 of this Code.

SECTION 25.005 - REVIEW AND DECISION

The Review Board shall be convened by the Chairman of the Review Board, who shall be the Planning Director, or authorized representative. The Review Board shall conduct a public hearing to review the tentative plan and recommendations of the agencies. At the hearing, the Review Board shall take testimony from all interested persons. All hearings shall be governed by the Klamath County Internal Rules and Procedures. The Review Board may continue the hearing on the tentative plan where it reasonably appears that additional time in which to make recommended changes to the tentative plan. At the close of the hearing or within fifteen (15) days, the Review Board shall give approval to the tentative plan as submitted or as may be modified or if the tentative plan is disapproved, shall express its disapproval in writing and the reasons therefore. The decision of the Review Board shall be prepared in the form of the final board motion section of the official hearing minutes and mailed to the applicant.

SECTION 25.006 - APPEAL

A decision of the Land Partitioning Review Board shall be final unless, within ten (10) days of its mailing it is appealed by the applicant or party with standing in accordance with procedures set forth in Chapter 3, Article 33 of this Code.

## ARTICLE 26 - PLANNING COMMISSION REVIEW PROCEDURE

### SECTION 26.001 - PURPOSE

The purpose of this Planning Commission Review Procedure is to ensure that land use and development proposals which will have significant effects on a broad range of lands and persons are in compliance with this Code and all other applicable codes and ordinances.

### SECTION 26.002 - APPLICATION

The following shall be subject to Planning Commission Review:

- A. Amendment of the Comprehensive Plan Document - Legislative
- B. Amendment of the Land Development Code - Legislative
- C. Subdivision of Land
- D. Comprehensive Plan Changes, Zone Changes, Conditional Use Permits and Variances when in conjunction with a proposed subdivision or Planned Unit Development.
- E. Planned Unit Developments
- F. Comprehensive Plan changes involving resource zones.

### SECTION 26.003 - PUBLIC HEARING AND NOTICE

The Planning Director shall set a date for a noticed public hearing for Planning Commission Review as provided by Chapter 3, Article 32 of this Code.

### SECTION 26.004 - REVIEW AND DECISION

The Planning Commission will conduct a public hearing to review the land use application or policy decision before it. At the hearing, the Planning Commission shall take testimony from all interested persons. All hearings shall be governed by the Klamath County Planning Commission Internal Rules of Procedure. The Planning Commission may approve, conditionally approve, or disapprove matters before it, as set forth in Chapter 4 of this Code. The Planning Commission may continue the hearing where it reasonably appears that additional testimony needs to be taken or the applicant is granted additional time in which to make recommended changes in his application. At the close of the hearing, the Planning Commission shall make its decision including the supportive findings of fact and conclusions of law. The decision of the Planning Commission shall, in the case of a proposed subdivision, be prepared in the form of the final Planning Commission motion from the official hearing minutes.

SECTION 26.005 - APPEAL

A decision of the Planning Commission shall be final unless appealed within ten (10) days of its mailing, by the applicant or a party having standing in accordance with procedures set forth in Chapter 3, Article 33 of this Code.

ARTICLE 28 - BOARD OF COMMISSIONERS REVIEW PROCEDURE

SECTION 28.001 - PURPOSE

The purpose of the Board of Commissioners Review Procedure is to establish a process for reaching major public policy decisions concerning the use and development of lands within Klamath County. This procedure recognizes that certain decisions may be administrative in nature, while other decisions may be legislative.

SECTION 28.002 - APPLICATION

The following shall be subject to Board of Commissioners Review:

- A. Amendment of the Comprehensive Plan Document - Legislative
- B. Amendment of the Land Development Code - Legislative
- C. Change of Comprehensive Plan or Zone designation when appealed from the Planning Commission or Hearings Officer. The appeal hearing shall be de-novo.
- D. Partitions of land in the agricultural zones.
- E. Non-farm Conditional Use Permits when in conjunction with agricultural partitions.
- F. Variances when in conjunction with agricultural partitions.

SECTION 28.003 - PUBLIC HEARING AND NOTICE

The Planning Director shall set a date for a noticed public hearing for Board of Commissioners Review as provided by Chapter 3, Article 32 of this Code.

SECTION 28.004 - REVIEW AND DECISION

The Board of Commissioners shall conduct public hearings to review the land use application or proposed policy before it. At the hearing, the Board shall be governed by the Board of County Commissioners Internal Rules of Procedure. The Board may approve the application or proposed policy as initially submitted, or it may disapprove the application or policy stating its reasons therefore. The Board may continue its hearing where it reasonably appears that additional testimony needs to be taken. The Board shall make its decision at the time of the public hearing, but in the event more time is needed, the Board shall have a maximum of thirty (30) days to hold an additional public hearing for such decision.

SECTION 28.005 - APPEAL

Appeal from a decision of the Board of Commissioners shall be as provided in Chapter 3, Article 33 of this Code.



CHAPTER 3  
HEARINGS AND APPEAL OF DECISIONS  
ARTICLE 30 - BASIC PROVISIONS

SECTION 30.001 - PURPOSE

The purpose of this chapter is to prescribe procedures for public hearings, and notice of same, required by Chapter 4 - Land Use and Development Application Procedures and to establish procedures for the appeal of decisions reached as a result of the review procedures described in Chapter 2 - Review Procedures.

## ARTICLE 31 - PUBLIC HEARINGS

### SECTION 31.001 - RESPONSIBILITY OF PLANNING DIRECTOR

The Planning Director shall perform the following duties pertaining to a hearing, all in accordance with other provisions of this Code.

- A. Upon receipt of an application for a Land Use and Development or policy decision requiring a public hearing, the Planning Director shall schedule a date for a public hearing. All such applications must be received by the Planning Director not less than twenty (20) working days prior to the regular monthly hearing or special hearing at which consideration is requested. The Planning Director may schedule special hearings as warranted by the agenda loads of regular hearings.
- B. Conduct the correspondence of the hearing body.
- C. Give notice in accordance with Article 32 of this chapter.
- D. 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 hearing body.
- E. Prepare minutes to include the decision on the matter heard and the reasons for the decision.
- F. Reduce the decisions of the hearings body to writing within a reasonable time.
- G. Mail a copy of the decision to all parties to a hearing or review.

### SECTION 31.002 - CHALLENGES TO IMPARTIALITY

Except for hearings by the Board of Commissioners concerning either a Code amendment or a Plan revision which involves a substantial area and number of property owners, or an issue of broad public policy, a party to a hearing or a member of a hearing body may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state by affidavit the facts relied upon by the challenger relating to a person's bias, prejudgment, personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. A challenge shall be delivered by personal service to the Planning Director not less than forth-eight (48) hours preceding the time set for public hearing. The Director shall attempt to notify the person whose qualifications are challenged prior to the meeting. The challenge shall be incorporated into the record of the hearing.

### SECTION 31.003 - DISQUALIFICATION

Except for hearings by the Board of Commissioners concerning either a Code amendment or a Plan revision which involves a substantial area and number of property owners, or an issue 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 hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with 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.
- D. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

### SECTION 31.004 - PARTICIPATION BY INTERESTED OFFICERS OR EMPLOYEES

No officer or employee of Klamath County who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of such interest.

### SECTION 31.005 - EX PARTE CONTACTS

Except for hearings by the Board of Commissioners concerning either a Code amendment or a Plan review which involves a substantial area and number of property owners, or an issue of broad public policy, the general public has a right to have hearing body members free from prehearing or ex parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, hearing body members shall reveal any significant prehearing or ex parte contacts with regard to any matter at the commencement of the public hearing on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain in accordance with Section 31.006.

SECTION 31.006 - ABSTENTION OF DISQUALIFICATION

Except for hearings by the Board of Commissioners concerning either a Code amendment or a Plan revision which involves a substantial area and number of property owners, or an issue of broad public policy, disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion

SECTION 31.007 - RIGHTS OF DISQUALIFIED MEMBER OF THE HEARING BODY

- A. An abstaining or disqualified member of the hearing 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 hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.
- B. If all members of a hearing body abstain or are disqualified, all members present after stating their reasons for abstention or disqualification shall by so doing be requalified 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.

SECTION 31.008 - BURDEN AND NATURE OF PROOF

Except for hearings by the Board of Commissioners concerning either a change of zone or comprehensive plan designation revision which involves a substantial area and number of property owners, the burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in the area, the greater is the burden upon the proponent. The proposal must be supported by proof that it conforms to the applicable elements of the comprehensive plan and to applicable provisions of this ordinance, especially the specific criteria set forth for the particular type of decision under consideration. Additionally, the following factors are deemed relevant and material and shall be considered by the hearing body in reaching its decision on a proposal.

- A. Mistake in the original designation or provision.
- B. Change of conditions within the vicinity in which the development is proposed.

SECTION 31.009 - ORDER OF PROCEEDINGS

An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

- A. Before receiving information on the issue, the following shall be determined:
  1. Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the person presiding has the discretion to proceed or terminate.
  2. Any abstentions or disqualifications shall be determined.
- B. The person presiding at the hearing may take official notice of known information related to the issue, such as the following:
  1. Provisions of the charter or state law or of an ordinance, resolution, rule, or officially promulgated policy of Klamath County.
  2. Other public records and facts judicially noticeable by ORS 41.410.
- C. Matter officially noticed need not be established by evidence and may be considered by the hearing body in the determination of the matters. Parties requesting notice shall do so on the record; provided, however, that the hearing body may take notice of matters listed in Subsection B of this section if stated for the record. Any matter given official notice may be rebutted.
- D. The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner and circumstances of such view in the record.
- E. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.
- F. When the hearing has ended, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.

- G. All evidence, testimony, deliberations, and decisions shall be made before the public, recorded, and make a part of the record.

#### SECTION 31.010 - DECISION

Following the hearing procedure described in Section 31.008, the hearing body shall approve or deny the application of if the hearing is in the nature of an appeal, affirm, reverse or remand the decision that is on appeal. A decision on an application or appeal shall be made within thirty (30) days of the final hearing on the matter except that with the agreement of the hearing body and an applicant or appellant, the processing of a matter under consideration may be extended for a reasonable period of time as determined by the hearing body, but not to exceed six months from the date of the first hearing on the matter.

#### SECTION 31.011 - FINDINGS AND ORDER

Within thirty (30) days from the date a decision on an application is reached by the hearing body, the Planning Director or County Counsel shall prepare findings of fact and an order which shall include:

- A. A statement of the applicable criteria and standards against which the proposal was tested, and of the hearing body's interpretation of what would be required to achieve compliance with the criteria and standards.
- B. A statement of the facts which the hearing body found establishing compliance or noncompliance with each applicable criteria and assurance of compliance with applicable standards.
- C. The reasons for a conclusion to approve or deny.
- D. The decision to deny or approve the proposed change with or without conditions.
- E. The final order shall be filed with the Board of County Commissioners, Clerk's Office, Planning Department, and a copy mailed to the applicant at the address indicated on the application and to other parties to the hearing requesting a copy.

#### SECTION 31.012 - RECORD OF PROCEEDINGS

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

- A. Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.

- B. The hearing 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 findings and order shall be included in the record.
- D. A person shall have access to the record of the proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

## ARTICLE 32 - NOTICE OF HEARINGS

### SECTION 32.001 - PURPOSE OF NOTICE REQUIREMENTS

Notice of hearing or Planning Director review of minor partitions shall be reasonably calculated to give actual notice. The notice requirements for the various types of land use and development decisions are set forth in the Notice Schedule which is listed separately on the following page. This Schedule is a part of the Land Development Code and all references to this section shall include the Notice Schedule. In addition to the notice required by the Notice Schedule, the Planning Director shall provide additional notice to others he has reason to believe are affected or otherwise represent and interest that may be affected by the matter before the hearing board.

### SECTION 32.002 - TYPES OF NOTICE

The types of notice provided by this Code and the specific requirements of each are listed below.

- A. Published Notice - Notice published in a newspaper of general circulation in Klamath County on two (2) consecutive days not less than ten (10) days prior to the date set for the hearing.
- B. Mailed Notice - Notice mailed by first class mail not less than fifteen (15) days prior to the date set for hearing or review to all owners of properties which are the subject of the application and to owners of properties located within 100 feet for minor partitions or within 250 feet, including rights-of-way and bodies of water of subject properties for other land use actions. The failure of a property owner to receive notice shall not invalidate a decision reached at a public hearing if a good faith attempt was made to comply with the requirements of this Code for notice.
- C. 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 250 feet 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 Assessor of Klamath County. The applicant shall also file with the application an affidavit attesting to the validity of said ownership list.
- D. Posted Notice - Notice of hearings posted at designated locations in the Federal Post Office in Klamath Falls, Oregon, the Klamath Falls City Hall, the Klamath Falls County Courthouse, the Klamath County Courthouse Annex, and at other locations as determined by the Planning Director.

- E. Hearing Date - Upon receipt of a valid application, the Planning Director shall within ten (10) days from the date of receipt thereof, set a date for a public hearing or review which date shall be not less than twenty (20) nor more than ninety (90) days after filing of the application, or if no regular meeting is scheduled within the prescribed time limit, the date shall be set for the next regular meeting of the hearing or reviewing body.
- F. In the course of normal business, if the hearing body cannot hold a hearing within the prescribed 20-90 days, it may hold a special hearing.

SECTION 32.003 - CONTENT OF NOTICE

Notice shall contain the following information:

- A. The date, time, and place of the hearing.
- B. A description reasonably calculated to inform a person of the location of the property for which a development permit or other action is pending, including but not limited to use of a map of postal address and a subdivision lot and block designation, a metes and bounds description or the tax map designation of the County Assessor.
- C. The nature of the issue up for hearing.
- D. The interested parties that have standing to appear and be heard.
- E. The sections of the ordinance that are pertinent to the hearing procedure.
- F. The location where information may be examined and when and how written comments addressing findings required for a decision by the hearing body may be submitted.

SECTION 32.004 - COST OF NOTICE

The cost of notice required by this Code shall be included in the application fees.

NOTICE SCHEDULE (PART OF SECTION 32.001)

<u>Type of Application</u>	<u>Notice Requirements</u>
Variance	Published Mailed Posted
Conditional Use Permit	Published Mailed Posted
Minor Partition	Published Mailed
Major Partition	Published Mailed Posted
Subdivision	Published Mailed Posted
Change of Zone Designation	Published Mailed* Posted
Change of Comprehensive Plan Designation	Published Mailed* Posted
Amendment of Land Development Code	Published Posted
Amendment of Comprehensive Plan Document	Published Posted

\*Optional when legislative hearing

## ARTICLE 33 - APPEAL OF DECISIONS

### SECTION 33.001 - PURPOSE

The purpose of this article is to establish uniform procedures for the appeal of land use and development and policy decisions provided in Chapter 4 of this Code.

### SECTION 33.002 - APPEAL AUTHORITY

- A. Decisions reached by the following review authorities pursuant to Chapter 4 shall be subject to appeal to the Planning Commission:
  - 1. Planning Director
  - 2. Land Partition Review Board
- B. Decisions reached by the following review authorities pursuant to Chapter 4 shall be subject to appeal to the Board of Commissioners:
  - 1. Hearing Officer
  - 2. Planning Commission
- C. Decisions reached by the Planning Commission in its capacity as an appellate body shall be subject to appeal to the Board of Commissioners.
- D. Any request for modification of conditions of approval shall be subject to review by the approving body. This type of an appeal is not subject to the usual deadlines.

### SECTION 33.003 - STANDING TO APPEAL

To have standing to appeal, persons must have participated either orally or in writing at the public hearing and must at the time of the land use action, live, own, lease, or have contractual interest in property within 250 feet of the property involved in the land use action, or must have shown that their interests are adversely affected or that they were aggrieved by the final decision.

### SECTION 33.004 - INITIATION OF APPEAL

A decision of a review authority pursuant to Chapter 4 shall be appealed by a party with standing within the time limits prescribed in Chapter 2 of this Code. The filing of a Notice of Appeal shall be accompanied by the fee prescribed by resolution of the Board of Commissioners. The Notice of Appeal shall contain the following:

- A. A concise description of the land use decision sought to be reviewed, including the date of the decision.
- B. A statement of the interest of the appellant seeking review and, that the appellant was a party to the initial proceedings.
- C. The grounds relied upon for review.

SECTION 33.005 - SCOPE OF REVIEW ON APPEAL

The scope of review on appeal shall be de novo in the case of Comprehensive Land Use Plan and Zone Changes being appealed to the Board of County Commissioners. All other appeals shall be limited to the record made on the decision being appealed.

SECTION 33.006 - REVIEW OF THE RECORD

- A. For those appeals where review is confined to the record, the record shall include:
  - 1. Staff report prepared by the Planning Department.
  - 2. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review.
  - 3. The transcript of the hearing.
- B. The appeal authority shall make its decision based upon the record after first granting the right of argument but not the introduction of additional evidence to any party who has filed a notice of appeal.

SECTION 33.007 - NOTICE OF APPEAL HEARING

Notice of the hearing held by an appeal authority shall be of the same type as that required for the original hearing. Notice shall be mailed to the appellant, to all persons originally notified, and to parties to the hearing who may not have been on the original notification list.

SECTION 33.008 - APPEAL AUTHORITY DECISION

- A. Upon review, the appeal authority may by order remand, affirm, reverse or modify a determination or requirement of the decision that is under review. When the appeal authority renders a decision that reverses or modifies a decision of the hearing body, the appeal authority, in its order, shall set forth its findings and state its reasons for taking the action encompassed in the order. When the appeal authority elects to remand the matter to the hearing body for further consideration, it shall included a statement explaining the errors or omissions found to have materially affected the outcome of the original decision and the action necessary to rectify such.

- B. Action by the appeal authority shall be decided by a majority vote in accordance with the authority's adopted rules of procedure. The appeal authority shall render its decision no later than thirty (30) days from the date at which review was made. Findings of fact and an order shall be prepared in accordance with Section 31.011.



CHAPTER 4  
LAND USE AND DEVELOPMENT  
APPLICATION PROCEDURES  
ARTICLE 40 - BASIC PROVISIONS

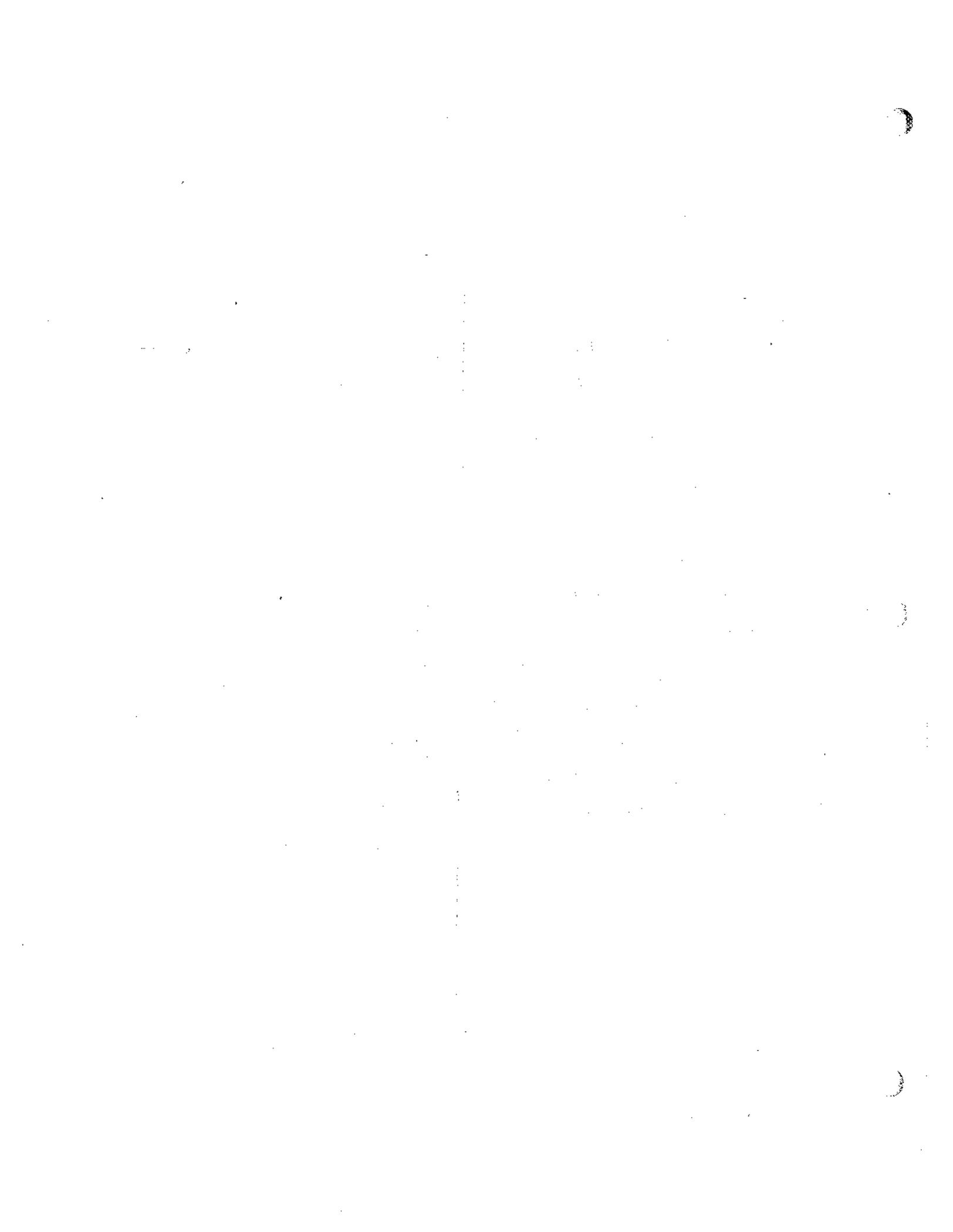
SECTION 40.001 - PURPOSE

The purpose of this chapter is to specify the various land use and development procedures provided by this Code, to describe the intent of each, and to establish the applicable procedures, including review procedures, and criteria.

SECTION 40.002 - TYPES OF APPLICATIONS

The land use and development applications provided by this Code are as follows:

- A. Site Plan Approval - Article 41
- B. Temporary Use Permit - Article 42
- C. Variance - Article 43
- D. Conditional Use Permit - Article 44
- E. Minor and Major Partitions - Article 45
- F. Subdivision of Land - Article 46
- G. Change of Zone Designation - Article 47
- H. Change of Comprehensive Plan Designation - Article 48
- I. Amendment of the Land Development Code - Article 49
- J. Amendment of the Comprehensive Plan Document - Article 49A



4. Location, exterior boundaries, and dimensions of property involved; scale and north arrow.
5. Location, name, width, and pavement type of adjacent street(s) or alleys; and proposed curbs, gutter and sidewalk improvements, if any.
6. Location, dimensions (including height), and use or occupancy of all existing and proposed structures on the property, including accessory structures, and including any decks, balconies, and other structural elements that protrude into yard areas.
7. Corner elevations of primary structures and direction of surface water flows onto, through, and off the property including the location of channels, creeks, swales and other existing or proposed drainage carriers or facilities affecting the proposed plot plan involved.
8. Location, type, and dimensions of proposed on-site sewage disposal and water supply, if any.
9. Location and dimensions of existing or proposed driveways and enclosed or open parking areas, including type of surface materials.
10. Location and descriptions of any additional major topographic or man-made features on the site, such as rock outcrops, graded areas, etc.
11. Landscaping may be required for all industrial use types, commercial use types, civic use types, multi-family or high density residential use types with 10 or more dwelling units, mobile home use types, parking areas and planned unit development use types within any Urban Growth Boundary or Rural Community Boundary in accordance with Article 65 (Landscaping) of this Code.
12. Parking areas as required by Article 68 (parking and loading).
13. Vehicular access and circulation as required by Article 71.
14. Signature of applicant, printed name, address and telephone number.
15. Location and dimensions of power line easements crossing the property.

