

**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 tax lot(s) or portions of single tax lots 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.
- G. 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
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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 landforms do not provide acceptable screening to adjacent public land or nonresource 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 Director of Public Works' 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.
2. No blasting shall occur on Saturdays, Sundays or the following holidays: January 1; Memorial Day; July 4; Labor Day; Thanksgiving Day; December 25.
3. 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 82 CAMPING

82.010 – PURPOSE

The purpose of this article is to establish standards for camping on private property, which is allowed in all zones, including inside Urban Growth Boundaries.

Camping is the occupancy of private property within a tent, tent-trailer, shelter (not larger than 100 square feet), vehicle, or recreational vehicle not within an authorized/designated camping facility.

Camping on public or private property beyond the time limits described in this section is prohibited, except for hunters with a current hunting license during an Oregon Dept. of Fish and Wildlife sanctioned hunting season.

82.020 – STANDARDS

A. Camping on private property is allowed for up to 21 days in any 6 month period. No permit is required for the first 7 days. A permit is required for any stay between 8 and 21 days and must be posted at the property entrance for the duration of the stay. A minimum of 14 days is required between camping stays. The total number of days counted is per all contiguous property under the same ownership.

B. Camping is limited to the property owner or those who have written permission from the property owner.

Outside of Urban Growth Boundaries, no more than a total of 2 vehicles, trailers with tow vehicles, or tents and a maximum of 12 people are allowed when a permit is required. Inside Urban Growth Boundaries, no more than 1 vehicle, trailer with tow vehicle or tent and a maximum of 4 people are allowed when a permit is required.

C. Sewage disposal requires the following when a permit is required:

- a. Porta Potty, or Pit Privy (outhouse) which requires a septic evaluation prior to installation.
- b. Gray water disposal sump or recycled gray water.

Where there is a public sewer system, no connection is allowed when camping.

D. If a permit has not been issued and a complaint regarding camping for more than 7 days is received, the number of days counted toward camping will start at day 8 when the complaint is received.

E. RV's and any shelter or tent must meet the basic setbacks of the zone.

F. If garbage or trash accumulates at the site, including in trailers or vehicles, or is left at the site, the County may revoke the camping permit and/or not issue any future camping permits until the site is cleaned up.

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-2, R-5, R-10, 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-2, R-5, R-10, 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 re-platting;
 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 for vehicles, pedestrians, and bicyclists, 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 Director of Public Works.
- 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 Director of Public Works 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 Director of Public Works 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 Director of Public Work 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 I 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 DWELLINGS,
RECREATIONAL VEHICLES, AND PARKS**

84.010 – STANDARDS FOR MANUFACTURED HOMES

Manufactured dwellings placed on individual lots in zones identified in Chapter 50, shall meet construction standards in accordance with Oregon Revised Statutes, Chapter 446 and Klamath County Code Chapter 703 and the following standards:

Manufactured dwellings are divided into three classes. Each class contains certain standards for compliance.

A. Minimum standards for manufactured homes sited inside the Klamath Falls Urban Growth Boundary shall:

1. Be a double section or larger multi-section unit; and
2. The home shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with no more than twenty-four (24) inches of the enclosing material exposed above grade. Where the building site has a sloped grade, no more than twenty-four inches of the enclosing material shall be exposed on the uphill side of the home; and
3. Have utilities connected subject to the requirements of the Klamath County Building Department and manufacturer's specifications;
4. The home must bear the HUD label; and
5. Have roofing materials of a type customarily used on site-constructed residences. The home shall have a pitched roof with a nominal slope of at least three feet in height for each twelve feet in width; and
6. Have siding materials of a type customarily used on site-constructed residences such as horizontal vinyl, wood, or aluminum lap-siding; and
7. Have a garage or carport at least 200 square feet in size, constructed before occupancy, of like materials. The garage or carport must be sited on the same lot as the dwelling.

B. Minimum standards for manufactured homes sited outside the Klamath Falls Urban Growth Boundary:

1. Be placed on a foundation, or support system approved by the building official; Skirting is required and shall be placed prior to final electrical approval; and
2. The home must bear the HUD label; and
3. Have utilities connected subject to the requirements of the Klamath County Building Department and manufacturer's specifications.

C. Manufactured homes NOT meeting the above minimum standards may be sited by Type I Administrative Review per Article 22.030 outside the Klamath Falls UGB if sited in Klamath County as of February 1, 1999, or within designated Manufactured/Mobile Home Parks, or for Temporary Uses as defined by Article 42.

1. If placed on a foundation or support system approved by the building official; skirting is required and shall be placed prior to final electrical approval; and
2. Bear the Oregon Insignia of Compliance; or if to be placed on private property, be certified as “substantially equivalent,” including but not limited to upgraded electrical circuitry, to a HUD labeled home as certified by the State of Oregon Building Codes Division; and
3. Have utilities connected subject to the requirements of the Klamath County Building Department and manufacturer’s specifications.

84.020 – CRITERIA AND STANDARDS FOR MANUFACTURED/MOBILE HOME PARKS

Manufactured/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. Manufactured/Mobile home parks shall be no less than 1 acre 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 Manufactured/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 Director of Public Works or State Highway Division.
- G. Vehicular access points to the Manufactured/Mobile Home Park shall maintain a “clear vision” setback pursuant to Section 62.020.
- H. Manufactured/Mobile Home Parks shall be landscaped as required in Article 65.
- I. Signs may be permitted pursuant to Article 66.
- J. Manufactured/Mobile Home Parks shall meet all Public Works Department standards of Chapter 70.

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.

84.050 – 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 the Recreational Vehicle Park in any zone authorizing such use.

**84.060 – REPLACEMENT OF SINGLE WIDE MOBILE/MANUFACTURED HOMES
WITHIN THE UGB**

- A. An existing single wide mobile/manufactured home utilized as an office/caretaker may be replaced with another single wide for the same purpose, if the following apply:
 - 1. The single wide mobile/manufactured home to be replaced, existed at its current location no later than December 2001 and continues to exist;
 - 2. The existing single wide mobile/manufactured home and its replacement must have been, and continue to be used in conjunction with a business, and cannot be used exclusively for residential purposes;
 - 3. The replacement permitted by this section, shall only be allowed in Commercial or Industrial zones described in Chapter 50;
 - 4. There must be insufficient space for anything larger than a single wide on the lot or parcel; and
 - 5. The replacement shall meet the standards of 84.010 (A)(2-6).
- B. In addition to the criteria (1-5) described in part A of this section, a Conditional Use Permit pursuant to Article 44, is required.
- C. If a replacement allowed by this section is no longer used as an office/caretaker, it shall be removed no later than three months after the use is discontinued.

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 established 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 guestroom. 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. One 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 landowner'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 non-sacred 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 ("1-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 II Administrative Review Procedure (Article 22).
- C. In addition to the notice requirements as set forth for the Type II 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 38 weeks per calendar year through a central reservation system operated by the destination resort or by a real estate property manager, as defined in ORS 696.010. 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:
 - 2. At least 50 units of overnight lodging must be constructed prior to the closure of sale of individual lots or units.
 - 3. At least 50 units of the remaining 100 required overnight lodging units must be constructed or guaranteed pursuant to Article 15 through surety bonding or equivalent financial assurances within 5 years of the initial lots sales.
 - 4. The remaining required overnight lodging units must be constructed or guaranteed pursuant to Article 15 through surety bonding or equivalent financial assurance within 10 years of the initial lot sales.
 - 5. The number of units approved for residential sale shall not be more than 2 ½ units for each unit of permanent overnight lodging provided under paragraph (2) of this subsection.
 - 6. If the developer of a resort guarantees the overnight lodging units be required under paragraphs (3) and (4) of this subsection through surety bonding or other equivalent financial assurance, the overnight lodging units must be constructed within 4 years of the date of execution of the surety bond or other equivalent financial assurances.
- 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.
- L. The setback of a structure or building is the horizontal distance measured to any part of the structure including architectural features, from the property line, and shall be:
1. Ten (10) feet for internal front yard setbacks unless the front yard is adjacent to a common area. Setback on a property with a depth of common area to the front of twenty (20) feet or more is zero (0). When the common area is less than twenty (20) feet, the structure shall be

ORD 45.0

ORD 45.40 Art. 88.030(L)(1,2,& 3)

ORD 45.48 Art. 88.030(L)(1 & 4)

Adopt February 16, 1984

Adopt September 24, 2001

Adopt April 16, 2003

setback six (6) inches for every foot less than twenty (20) feet. A 90-degree perpendicular measurement will be taken from the front property line at twenty (20) foot intervals along the front property line, to identify the shallowest depth of common area perpendicular to the front property line. This figure will be used to determine the depth of common area and the resulting front yard setback.

2. Five (5) feet for internal rear yard setbacks unless the rear yard is adjacent to a common area. Setback on a property with a depth of common area to the rear of 10 feet or more is zero (0). When the common area is less than 10 feet, the structure shall be setback six (6) inches for every foot less than 10 feet. The distance of common open space adjacent to a rear lot yard will be measured at 10-foot intervals along the rear property line. A 90-degree perpendicular measurement will be taken from the rear property line to the nearest point of common area. This figure will be used to determine the depth of common area and the resulting rear yard setback.
3. Five (5) feet for internal side yard setbacks unless the side yard is adjacent to a common area. Setback on a property with a depth of common area to the side of 10 feet or more is zero (0). When the common area is less than 10 feet, the structure shall be six (6) inches for every foot less than 10 feet. The distance of common open space adjacent to a side lot yard will be measured at 10-foot intervals along the side property line. A 90-degree perpendicular measurement will be taken from the side property line to the nearest point of common area. This figure will be used to determine the depth of the common area and the resulting side yard setback.
4. Zero (0) feet for internal side yard setbacks on lots that measure less than 4500 square feet, when applicant has met building fire resistive ratings.

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 require that the resort developer provide an annual accounting to document compliance with the overnight lodging standards of Section 88.030(C). The annual accounting requirement shall commence one year after the initial lot or unit sales. The annual accounting must contain:
 - 1. Documentation showing that the resort contains a minimum of 150 permanent units of overnight lodging or, during the phase-in period, documentation showing the resort is not yet required to have constructed 150 units of overnight lodging.
 - 2. Documentation showing that the resort meets the lodging ratio described in Section 88.030(C)(5).

3. For a resort counting individually owned units as qualified overnight lodging units, the number of weeks that each overnight lodging unit is available for rental to the general public as described in Section 88.020(C).
- D. 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.
- G. Safe and efficient circulation shall be incorporated into the design for vehicles, pedestrians, and bicyclists to the extent practical.

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.

ORD 45.0	Adopt February 16, 1984	
ORD 45.54 Art. 88.055(C)&(D)	Adopt October 12, 2005	Acknowledged November 4, 2005
ORD 44.84 Art. 88.060(G)	Adopt June 22, 2010	Acknowledged July 30, 2010

- 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.

ARTICLE 89 ACCESSORY DWELLING UNIT (ADU)

89.010 - PURPOSE

The purpose of this article is to set forth the standards for the establishment of permitted accessory dwelling unit(s) in conjunction with a single-family dwelling in the identified residential zones within the Klamath Falls urban growth boundary and within all single-family residential zones within the unincorporated portions of the urban growth boundaries of the cities of Chiloquin, Merrill, Malin and the Town of Bonanza.

89.020 – PERMITTED USE

Accessory dwelling units are a permitted use and shall be reviewed via Article 41 – Site Plan Review.

89.030 – STANDARDS FOR ACCESSORY DWELLING UNIT(S)

1. One accessory dwelling unit, per lot or parcel, is allowed. A secondary accessory dwelling unit can be added if one of the ADUs is within the existing footprint of the dwelling.
2. The total impervious surface area on the parcel/lot shall not exceed 40% of the total parcel/lot area.
3. Each accessory dwelling unit shall not exceed 800 square feet of floor area, or more than 50 percent of the existing dwelling, whichever is smaller. However, accessory dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the accessory dwelling would be more than 800 square feet.
4. Accessory dwellings shall meet all other development standards (e.g., height and setbacks, except that conversion of an existing legal non-conforming structure to an accessory dwelling is allowed, provided the conversion does not increase the non-conformity.)
5. One additional off-street parking space is required for each accessory dwelling unless it is within the existing footprint of the dwelling.
6. Accessory dwelling units shall not be manufactured homes.