

## Athena Ordinances

**CITY OF ATHENA  
UMATILLA COUNTY, OREGON  
ZONING ORDINANCE #950**

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF ZONING REGULATIONS FOR THE CITY OF ATHENA, OREGON, AND FOR THE REPEALING OF CITY OF ATHENA ORDINANCE #391 and 432.

The city of Athena, Oregon ordains as follows:

**ARTICLE 1. INTRODUCTION**

**1.10 TITLE.** This Ordinance together with the attached Zoning Map shall be known as the Zoning Ordinance of the City of Athena, Oregon.

**1.20 INTENT AND PURPOSE.** The intent of this Zoning Ordinance is to promote a good quality of development within the community and provide an opportunity for citizens and City officials to review and comment on development plans. By governing the location of land uses and setting standards to guide the siting of structures and provision of improvements on lots, the Zoning Ordinance is an attempt to insure that new development will enhance the community, fit into the landscape and neighborhood, and provide good living, working, and business environments.

The development of zones and standards for this Ordinance was governed by the City policies stated in the Comprehensive Plan for the purpose of promoting the public health, safety, and welfare, protecting property values, providing adequate light and air, preventing overcrowding, avoiding conflicts between adjacent land uses, and balancing the rights of the individual with those of their neighbors. A method of administration is provided, and penalties for violations are proscribed.

**1.30 SCOPE.** From this day forward, all construction and use of the land shall comply with the provisions of this Ordinance, except as otherwise permitted.

**1.40. DEVELOPMENT PERMITS.** Prior to the construction of a stick-built home, installation of a manufactured home, reconstruction, addition to, or change of use of a structure, or the change of use of a lot, or the excavation or grading of any lot, a Development Permit shall be obtained from the Planning Commission pursuant to Section 4.10 of the Ordinance. A Development Permit constitutes the City's approval of a proposed construction project and must be obtained in order to apply for a Building Permit from the Oregon Department of Commerce.

**1.50 DEFINITIONS.**

- 1. Accessory Use Structure.** A use or structure incidental and subordinate to the main use of the property, located on the same lot with the main use. Example – home occupation, shed.
- 2. Accessory facility.** A non-structure installation, e.g. swimming pool, parking lot, patio.
- 3. Alley.** A street through a block primarily for vehicular access to the back or side of property otherwise abutting on another street.
- 4. Apartments.** Structures containing two or more dwelling units for rental or sale as condominiums.

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- 5. Appeal.** A request for a review of the Planning Commission's interpretation of any provision of this ordinance or a request for a variance.
- 6. Approximate 100-year Flood Plain Boundary.** Means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.
- 7. Area of Special Flood Hazard.** The land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year.
- 8. Base flood (100-Year Flood).** The flood having one percent chance of being equaled or exceeded in any given year. Designation on maps includes the letter A.
- 9. City.** The City of Athena, Oregon.
- 10. City Council.** The council of the City of Athena, Oregon.
- 10a. City Limits.** The boundary of an incorporated entity within which taxes may be levied against property owners.
- 11. Community Facilities.** Facilities primarily associated with the cultural, social, or recreational needs of the community; e.g. church, school, park, library, cultural center, hospital.
- 12. Comprehensive Plan.** The comprehensive plan of the City of Athena, Oregon.
- 12a. Conditional Uses.** Uses for a zone that may be permitted after review and approval by the local government.
- 13. Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- 14. Duplex.** A detached structure containing two dwelling units. A house with an accessory dwelling is not considered to be duplex.
- 15. Dwelling Unit.** One or more rooms designed for occupancy by one family, containing complete housekeeping facilities. For the purposes of this ordinance dwelling unit does not include recreational vehicles.
- 16. Family.** An individual or two or more persons related by blood, marriage, legal adoption, or guardianship or a group of not more than five persons who need not be related by blood or marriage living together in a dwelling unit.
- 17. Farming, Farm Use.** The use of land for raising and harvesting crops, or for the feeding breeding and management of livestock, or for dairying, or for any other agricultural or horticultural use, or any combination thereof, including disposal of such products by marketing or otherwise. Farming also includes the use and construction of buildings customarily used in the above activities.
- 18. Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waters and/or
  - (b) The unusual and rapid accumulation of runoff of surface waters from any source.
- 19. Flood Insurance Rate Map.** The official map on which the Federal Insurance administration has delineated the areas of special flood hazards and the risk premium zones applicable to the community.
- 20. Flood Insurance Study.** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

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- 21. 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.
- 22. Flood Area.** The total area of all floors of a building as measured to the outside surfaces of exterior walls, including halls, stairways, elevator shafts, attached porches and balconies, excluding open court yards and vent shafts.
- 23. Grade.** The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.
- 24. Habitable Floor.** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a “habitable floor”.
- 25. Height of Building.** The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line on a mansard roof, to the mean point between the eaves and highest gable of a pitched or hipped roof.
- 26. Home Occupation.** Accessory use of a dwelling for small scale family enterprises.
- 27. House, Single-Family.** A detached structure containing one principal dwelling unit.
- 27a.** A land use procedure for making or amending laws which have a widespread impact on all who reside or conduct business within the urban growth boundary. Legislative actions have a presumption of validity in court, and are not subject to many of the formalities of procedural due process as are quasi-judicial actions (264 OR 574, Fasano vs Washington County Board of Commissioners).
- 28. Lot.** A legal division of land having its principal frontage on, or permanent access to a street.
- 29. Lot Area.** The total area within the boundary lines of the lot.
- 30. Lot, Corner.** A lot abutting on two or more intersecting streets, other than alleys, where the angle of intersection of the streets does not exceed 135 degrees.
- 31. Lot Depth.** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.
- 32. Lot Line.** The boundary of a lot.
- 33. Lot Line, Front.** The line separating the lot from the street other than an alley or the nearest line to the public street. In the case of a corner lot, the shortest lot line along a street other than an alley.
- 34. Lot Line, Rear.** Any boundary line opposite and most distant from a front lot line, and not intersecting a front lot line, except in the case of a corner lot.
- 35. Lot Line, Side.** Any lot line not a front or a rear lot line.
- 36. Lot, Tax.** A lot or lots under the same ownership as mapped and referenced by the Umatilla County Assessor’s Office.
- 37. Lot Width.** The mean horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
- 37a. Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles building access or storage, in an area other than a basement area, is not considered a buildings lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of the flood hazard regulations of this Ordinance.
- 38. Mobile Home.** See “Manufactured Dwelling”.

**39. Manufactured Dwelling.**

- A. **RESIDENTIAL TRAILER OR RECREATIONAL VEHICLE:** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.
- B. **MOBILE HOME** (referred to as a Type B Manufactured Home in this Ordinance): A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- C. **MANUFACTURED HOME** (referred to as a Type A Manufactured Home in this Ordinance): A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing in effect at the time of construction. “Manufactured dwelling” does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

**40. Manufactured Dwelling Park.** Any place tract of land approved for a manufactured dwelling park or where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for space free in connection with securing the trade or patronage of such person.

**41. Mobile Home Park.** See “Manufactured Dwelling Park”.

**42. Modular Home.** See “Manufactured Dwelling”.

**42a. 100-Year Flood.** Also referred to as the “base flood” this is the flood having a one percent chance of being equaled or exceeded in any given year; in other words, the largest flood expected during an average 100-year period.

**42b. 100-Year Flood Plain.** That area which would be flooded by a 100-year flood same as an “area of special flood hazard” except that a 100-year flood plain can exist along minor streams as well, not just those major flood areas identified by the Federal Insurance Administration.

**42c. 100-Year Flood Elevation.** The water surface elevation of a 100-year flood.

**43. Owner.** The owner of a record of real property as shown in the records of the County Assessor, or the registered agent of such owner.

**44. Parking Space.** An area adequately sized, having access to a public street, used or intended to be used for the parking of a vehicle.

**45. Planning Commission.** The planning commission of the City of Athena, Oregon.

**45a. Quasi-Judicial Action.** A land use procedure that involves the application of general policies or laws to specific persons or properties. This procedure is to be contrasted with legislative action which involves the creating of policies and law.

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**45b. Quorum.** A majority of the members of a hearing body who must be present for the valid conduct of meetings and decision-making.

**46. Sign.** An identification, description or device which directs attention to a product, place, activity, person, institution or business, and which is affixed to or represented upon a building, structure or land. Each display surface or a sign structure shall be considered a separate sign.

**46a. Start of Construction.** Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvements was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footing, the installation of piles, the construction of a structure on a site, such as the pouring of slab or footing, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not the main structure.

**47. Street.** A public right-of-way for the use of pedestrian or vehicular traffic.

**48. Structure.** A walled and roofed building or manufactured dwelling that is principally above ground; an open-air, non-enclosed construction; e.g. patio roof, gazebo.

**48a. Substantial Improvement.** “Substantial Improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started, or
- (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure.

**The term does not include either:**

- (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specification which are solely necessary to assure safe living conditions, or
- (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**49. Urban Growth Boundary (UGB).** A line indicating the outermost limit of a city’s planned expansion not to be confused with the city limits. The UGB has several defining characteristics:

- (3) the boundary is “site specific”, meaning its location must be described precisely, either by a legal description or a map.
- (4) the boundary is adopted by the city it surrounds and by the county in which the city is located.
- (5) The boundary indicates the planned extent of a city’s growth over a twenty (20) year period of time. The UGB is reviewed as the state requires through periodic review. As new information on population growth, need for land, and other

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significant factors become available, the UGB will be modified accordingly.

**49. Yard.** An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.

**50. Yard, Front.** The yard lying between the front lot line and the front of the building.

**51. Yard, Rear.** That yard lying between the rear lot line and the rear of the building.

**52. Yard, Side.** That yard lying between the building and the side lot line.

## ARTICLE 2. USE ZONES

### **2.10 ESTABLISHMENT OF ZONES.**

**2.11 CLASSIFICATION OF ZONES.** The following Use Zones are established for application within the City of Athena for use by Umatilla County within the adopted Athena Urban Growth Area.

<u>USE ZONE</u>	<u>DESIGNATION</u>
A. Suburban Residential	R-SUB
B. General Residential	R-GEN
C. Residential-Commercial	R-COM
D. Central Commercial	C-CEN
E. General Industrial	M-GEN
F. Flood Hazard Overlay	FH

**2.12 LOCATION OF ZONES.** The Zoning Map included in this Ordinance shows the location of the above Use Zones within the City of Athena and suggests zoning within the Urban Growth Area. One or more of the Use Zones may not appear on the Map, because they are single purpose zones that only applies when the type of development they regulate is proposed. A current Zoning Map complete with all amendments will be on file with the City Recorder.

**2.13 ZONING WITHIN THE URBAN GROWTH AREA.** Pursuant to the Athena Urban Growth Area Joint Management Agreement entered into by the City of Athena and Umatilla County, the current version of the Zoning Map will indicate the pattern of zoning the City desires within the Urban Growth Area at the time. A Growth Zoning Map also included within this Ordinance indicates to the County the pattern of zoning the City would desire when all the land within the Urban Growth Area was actually developed for urban uses. Generally, Umatilla County's F-1, Exclusive Farm Use Zone, is to remain in effect within the Urban Growth Area to accommodate existing agricultural use and to preserve the land in large blocks until it is proposed for urban development. Rezoning to the appropriate City Use Zone is required prior to development of such land to urban uses.

**2.14 ZONING OF AREAS TO BE ANNEXED.** Prior to the annexation of any land to the City of Athena, the Planning Commission shall determine, by reference to the Comprehensive Plan and the Growth Zoning Map, the appropriate zoning for the property to be annexed.

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**2.15 BOUNDARIES BETWEEN ZONES.** Normally, the boundaries between use zones are section lines, subdivision lines, lot lines, center lines of streets or railroad rights-of-way, or such lines extended. More than one zone may be applied to large, undeveloped parcels, with the exact boundaries between the zones being determined by consultation between the Planning Commission and the property owner at the time of partition or subdivision of the parcel.

**2.20 SUBURBAN RESIDENTIAL ZONE, R-SUB.**

**2.21 INTENT.** The R-SUB, suburban Residential Zone, is designed to create a more rural form of residential development for those families that would like to have larger animals (e.g. horses and cows), or a larger garden or orchard than could be accommodated on the smaller city lots.

**2.22 PERMITTED USES.**

- A. Single-family houses
- B. Type A manufactured homes complying with Section 2.331.
- C. Accessory uses, structures, and facilities complying with Section 3.50.

**2.23 CONDITIONAL USES.**

- A. Keeping of horses or other livestock.
- B. Community Facilities.

**2.24 DIMENSIONAL STANDARDS.**

- A. Parcel Size: a minimum of 20,000 square feet.
- B. Yard Areas: front yard—buildings must be set back at least 20 feet from the front property line; side and rear yards—buildings must be set back at least 10 feet from property lines; barns or stables should be at least 30 feet from property lines; dwellings should be at least 30 feet from property lines; dwellings should be at least 30 feet from the rear property line.

**2.25 DEVELOPMENT STANDARDS.** The Development Standards for the R-SUB Zone shall be the same as those provided for the R-GEN Zone in section 2.35, excepting that paved driveways are not required.

**2.30 GENERAL RESIDENTIAL ZONE, R-GEN.**

**2.31 INTENT.** The creation and maintenance of attractive, livable residential neighborhoods is encouraged by the R-GEN zone. In keeping with the small size of the city, the zone is flexible. Houses, duplexes, Type A manufactured homes with “house-type” appearances, and manufactured dwelling parks are permitted outright.

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**2.321 PERMITTED USES.**

- (a) Single-family dwellings.
- (b) Type A manufactured homes which are similar in appearance to houses and which comply with Section 2.331.
- (c) Duplexes.
- (d) Manufactured dwelling parks subject to the requirements of 2.38A, 2.38B and 2.39

**2.322 CONDITIONAL USES.**

- (a) Community facilities.
- (b) Apartment developments.

**2.33 STANDARDS FOR MANUFACTURED HOMES.****2.331 STANDARDS FOR MANUFACTURED DWELLINGS ON INDIVIDUAL LOTS**

- (a) The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.
- (b) The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter with concrete or concrete block stem wall.
- (c) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
- (d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings.
- (e) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.
- (f) The manufactured home shall have a garage or carport constructed of like materials and be of like or similar color to the home.

**2.332. STANDARDS FOR MANUFACTURED DWELLING PARKS SMALLER THAN THREE ACRES IN AREA**

- (a) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
- (b) The manufactured home shall have exterior siding and roofing that, in color, material and appearance, is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or that is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.



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**2.34 STANDARDS FOR SINGLE-FAMILY HOMES, MANUFACTURED HOMES, AND DUPLEXES.**

- A. Parcel size: a minimum of 6000 square feet for a single-family house or permitted manufactured home; a minimum of 9000 square feet for a duplex.
- B. Lot coverage: a maximum of 35% of the site area may be covered by the principal and accessory buildings. Lots with an area of 6,000 square feet or less may have a maximum of 45% lot coverage.
- C. Building height: a maximum of 35 feet.
- D. Yard areas:
  - front – 15 feet
  - Side --- 5 feet
  - Side on a corner lot – 15 feet
  - Back – 20 feet

Accessory buildings may be built to within 5 feet of the property line except within 15 feet of the front property boundary. Accessory buildings may also be built to the alley property line as long as the side setbacks are met. Accessory buildings in a residential zone shall not exceed a height of 25'.

**2.35 DEVELOPMENT STANDARDS.**

- A. Minimum dwelling unit size:
  - 1. Single-family standard construction: 940 square feet; manufactured homes: 1,000 square feet.
- B. Off-street parking; each principal dwelling unit shall be provided with at least 2 spaces of off-street parking, one of which can be provided in a paved driveway; within all subdivisions platted after the effective date of this ordinance, at least one of the spaces shall be contained in a garage or carport; accessory dwellings shall be provided with at least one additional off-street parking space.
- C. Landscaping:
  - 1. Landscaping and shade trees shall be provided within six months in accordance with Section 3.20.
  - 2. For manufactured homes, in addition, foundation plantings of shrubs and other ornamental vegetation shall be provided around the base of those portions of the manufactured home, and any tip-out, addition, or extension, visible from a public street. Such landscaping shall be planted within six months of moving the manufactured home onto the lot and shall be continuously maintained.

**2.36 STANDARDS FOR APARTMENT DEVELOPMENTS.**

- A. **Project Density:** 10-12 dwelling units per gross acre.
- B. **Parcel size:** minimum of 7000 square feet for the first unit, plus 2000 square feet for each additional unit.
- C. **Lot coverage:** a maximum of 35% of the parcel area shall be covered by the principle buildings and any accessory structures.
- D. **Setbacks:** buildings must be setback at least 15 feet from road rights-of-way and 10 feet from side or rear property lines.
- E. **Building height:** maximum of 35 feet.

## **2.37 DEVELOPMENT STANDARDS.**

- A.** Size of apartment units: a minimum of
  - 420 square feet for Bachelor suites
  - 600 square feet for One-bedroom suites
  - 780 square feet for Two-bedroom suites
  - 960 square feet for Three-bedroom suites
  
- B.** Recreation and open space;
  - 1.** a minimum of 400 square feet per dwelling unit of landscaped open space shall be provided in addition to the area contained within the required setbacks; a minimum of 2000 square feet of such area shall be provided.
  - 2.** a minimum of 200 square feet per dwelling unit of landscaped open space shall be provided in addition to the area contained within the required setbacks; a minimum of 2000 square feet of such area shall be provided.
  - 3.** private open spaces must be screened from each other, and if on the ground floor, screened from common areas.
  - 4.** recreation rooms and building can satisfy part of the open space requirement on a one-to-one square footage basis.
  - 5.** play equipment must be provided in one or more identifiable areas of the complex, unless the development is designed for adults only.
  
- C.** Storage requirements: a minimum of 50 square feet of 7 feet high, enclosed, external storage area shall be provided for each unit; such storage area shall be suitable for bicycles and other bulk items.
  
- D.** Configuration: entrances to the dwelling units shall be off interior hallways or interior or exterior stair wells; 6 inches air spaces with insulation shall separate party walls and driveways.

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- E.** Parking and Driveways.
  - 1.** a minimum of 2 parking spaces shall be provided for the personal use of each dwelling unit; at least one space shall be covered; such spaces shall be readily accessible to the units they serve; bachelor units need be provided with only one parking space; units designed solely for senior citizens need be provided with only one parking space.
  - 2.** a minimum of ½ parking space shall be provided each dwelling unit for guest parking; such parking must be located on the apartment complex site.
  - 3.** parking areas must be at least 20 feet from road rights-of-way; parking areas cannot encroach on front or corner yard setbacks; parking must be at least 15 feet from walls with windows, and separated from such walls by a landscaped berm at least 3 feet high; parking areas may be within 5 feet of side or rear property lines; trees and shrubs shall be provided around all parking areas; fences shall be provided along property lines where parking areas are within 10 feet of the property line.
  - 4.** the same setback standards as apply to parking areas shall apply to driveways as well.
  - 5.** all parking areas and driveways shall be paved.
  
- F.** Identification: the number of each unit shall be clearly marked; directional signs shall be provided to help visitors locate individual apartments; the name and address of the

apartment complex shall be clearly displayed on or in front of the complex; the sign may be a maximum of 20 square feet and may be lighted; the sign may not be of the plastic/neon type.

- G. Laundry facilities: laundry facilities shall be provided in conjunction with all apartment developments containing 10 units or more.

**2.38-A STANDARDS FOR MANUFACTURED DWELLING PARKS:** Total development

- A. Project density: 8 units per gross acre
- B. Parcel size: minimum of ~~2 acres~~ one acre, maximum of 10 acres
- C. Setbacks: manufactured home spaces must be setback a minimum of 20 feet from road rights-of-way and 15 feet from side or rear property lines.

**2.38-B STANDARDS FOR MANUFACTURED DWELLING PARKS:** manufactured home spaces

- A. space size: minimum of 5000 square feet for a double-wide; 4000 square feet for a single-wide
- B. setbacks: manufactured homes must be setback at least 10 feet from the edge of internal roads
- C. no manufactured home shall be located closer than 15 feet from another manufactured home or general use building within the park

**2.39 DEVELOPMENT STANDARDS**

- A. Paved interior streets shall be provided; minimum width of 20 feet; no on-street parking.
- B. Required utility installations: water lines, sewer lines, underground telephone, electricity, storm drains, fire hydrants, street lights.
- C. Parking: a minimum of 2 spaces shall be provided on each manufactured home space; one half space of guest parking shall be provided for each manufactured home

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at selected points in the complex; parking may not encroach in the front yard area (ie. must be set back at least 10 feet from the edge of interior streets)

- D. Storage: a storage shed with at least 80 square feet of floor area and 7 feet in height shall be provided on each manufactured home space.
- E. Landscaping: at least two shade trees shall be planted and maintained on each manufactured home space; a 6 foot high sight-obscuring hedge or row of shrubs shall be planted around the perimeter of the park where it adjoins other parcels, and along the edge of the front and/or side setbacks along road rights-of-way; all areas not covered by pads, parking, patios, streets, etc. shall be landscaped with groundcover, shrubs, and trees. Trees shall be included in the perimeter plantings to provide privacy to those areas of the park that are immediately downhill from existing or potential residential development.
- F. Identification: the number of each manufactured home space shall be clearly marked and lighted if necessary; directional signs shall be provided to help visitors locate individual manufactured homes; the name and address of the manufactured dwelling park shall be clearly displayed in front of the park; the sign may be a maximum of 20 square feet and may be lighted; the sign may not be of the plastic/neon type.
- G. Recreational and Open Space:
  - 1. A minimum of 400 square feet of landscaped open space shall be provided in addition to the area contained on each space and within the required setbacks; this recreation/open area shall be a minimum of 10,000 square feet in size.

2. Recreation rooms and buildings should be provided if the park contains more than 40 units.
  3. Play equipment must be provided in one or more identified sites within the park unless the development is designed for adults only.
- H.** Laundry facilities: shall be provided if the complex contains more than 20 units.
- I.** Installation requirements: the installation requirements for manufactured homes shall be as found in Section 2.333.
- J.** Overnight residential trailer or recreational vehicle accommodations may be included within the manufactured dwelling park:
1. no more than 10% of the area of the manufactured dwelling park may be utilized for overnight accommodations.
  2. each space must contain at least 1200 square feet of which no more than 40% may be paved for the trailer pad and access; the remaining 60% of the space must be landscaped with groundcover, trees, and shrubs.
  3. at least one shade tree must be planted on each space and a privacy screen of shrubs must be planted between each space and between trailer spaces and manufactured home spaces or park buildings.
  4. the spaces shall be provided in portions of the park away from public roads.
  5. each space shall be provided with electricity and water hook-ups; a sewage dump shall be provided for communal use.
  6. adequate laundry, restroom, and shower facilities shall be provided.

## **2.40 RESIDENTIAL-COMMERCIAL ZONE, R-COM.**

**2.41 INTENT.** The R-COM, Residential-commercial Zone, is a multi-use zone designed to accommodate a mix of lower and higher-density residential uses and commercial activities in that portion of the downtown area back away from the main shopping street.

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## **2.42 PERMITTED USE:**

- A.** Single-family houses
- B.** Duplexes
- C.** Type A manufactured homes complying with Section 2.331.
- D.** Apartments
- E.** Lodging facilities
- F.** Eating and drinking establishments
- G.** Retail stores and shops
- H.** Offices, public and private
- I.** Personal and professional services
- J.** Financial institutions
- K.** Accessory uses, structures, and facilities complying with Section 3.50.

## **2.43 CONDITIONAL USES.**

- A.** Service stations and vehicular repair shops.
- B.** Machine shops, welding shops, etc.
- C.** Commercial amusement establishments
- D.** Community facilities
- E.** Any of the “permitted” commercial uses above when the size of the proposed development exceeds 5000 square feet of commercial floor space.
- F.** Recreational Vehicle Park.

**2.44 DIMENSIONAL AND DEVELOPMENT STANDARDS.** The Dimensional and Development standards of the R-GEN, General Residential Zone, apply for “permitted uses” A, B, and C. the Dimensional and Development standards of the C-CEN, Central Commercial Zone, apply for all other permitted and conditional uses. The supplementary Development Standards contained within Article 3 apply to all uses.

**2.50 CENTRAL COMMERCIAL ZONE, C-CEN.**

**2.51 INTENT.** Concentration of shopping and office activities, inclusion of apartments in the downtown area, and establishment of a pedestrian-oriented line of sidewall store fronts is the aim of the C-CEN, Central Commercial Zone.

**2.52 PERMITTED USES.**

- A. Apartments
- B. Lodging facilities
- C. Eating and drinking establishments
- D. Retail stores and shops
- E. Offices, public and private
- F. Personal and professional services
- G. Financial institutions
- H. Accessory uses, structures, and facilities complying with Section 3.50.

**2.53 CONDITIONAL USES.**

- A. Service stations and vehicular repair shops
- B. Machine shops, welding shops, etc.
- C. Commercial amusement establishments
- D. Community facilities
- E. Any of the “permitted” commercial uses about when the size of the proposed development exceeds 5000 square feet of commercial floor space.

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**2.54 DEVELOPMENT STANDARDS:** non-residential and apartment buildings

- A. The fronts of all buildings shall be located within 5 feet of the front property line and have easy, direct access from the sidewalk. Balconies and awnings may project out over the front property line.
- B. The street side portions of the lower floors of all buildings shall contain shops, offices, lobbies, and other activities oriented toward the passersby. Display windows and windows for viewing the activity inside the building should be provided.
- C. Buildings should be built to the property lines on either side so as to create a continuous line of storefronts. Access may be provided to the rear parking areas or to shops, offices, etc. lining an internal walkway.
- D. Parking areas must be in the rear rather than in front of or alongside the building. Vehicular access shall be provided from the alley.
- E. Buildings should be multi-story with commercial activities on the main floor and apartments and /or offices on upper floors. The maximum height of a building shall be 4 floors above ground level.
- F. All buildings shall be constructed of fireproof materials.

**2.55 DEVELOPMENT STANDARDS:** Apartments

- A. Standards for the size of apartment units are the same as what is found in Subsection 2.37A.

- B. A minimum of 100 square feet of balcony or terrace shall be provided in conjunction with each dwelling unit on upper floors; should units be developed on the ground floor in back of the building, 200 square feet screened and landscaped patio shall be provided.
- C. Storage requirements: A minimum of 50 square feet of 7 feet high bulk storage shall be provided for each dwelling unit; some external bulk storage shall be provided to accommodate resident's bicycles, etc.
- D. Configuration: entrances to the dwelling units shall be off interior hallways or interior or exterior stairwells; party walls between dwelling units shall consist of two standard walls with a 6 inch air space and insulation between; floors shall be designed for similar noise reduction.
- E. At least one parking space shall be provided for each dwelling unit and may be located either on the site or in some convenient parking area at most 200 feet from the apartment building. Access shall be via the alley.
- F. Identification: the number of each unit shall be clearly marked; directional signs shall be provided to help visitors locate individual apartments; the name and address of the apartment complex shall be clearly displayed on the front and rear of the building.
- G. Laundry facilities: laundry facilities shall be provided in conjunction with all apartment buildings containing 5 units or more.

**2.60 GENERAL INDUSTRIAL ZONE, M-GEN.**

**2.61 INTENT.** The M-GEN, General Industrial Zone, is intended to accommodate all the larger scale manufacturing, storage, processing, and handling facilities of the city.

**2.62 PERMITTED USES.**

- A. Transportation terminals
- B. Seasonal vehicle storage
- C. Warehouses and grain elevators
- D. Wholesale distribution facilities
- E. Agricultural supply centers

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- F. Research, experiment, or testing laboratories

**2.63 CONDITIONAL USES.**

- A. Automobile, truck, boat, manufactured home, travel trailer, and farm equipment sales and service.
- B. Repair shops and parts stores
- C. Lumber yards and building supply stores
- D. Wrecking yards
- E. Rock crushing and mining, asphalt plants
- F. Agricultural chemical sales and storage
- G. Bulk plants
- H. Natural gas storage and distribution facilities
- I. Utility substations
- J. Any of the above permitted uses with a proposed floor area of 10,000 square feet or more, or more than 50 employees.

**2.64 DEVELOPMENT STANDARDS.**

- A. A use which creates a nuisance because of noise, smoke or odor, dust, or gas may be prohibited.
- B. Materials shall be stored and grounds shall be maintained in a manner which will not create a vermin problem or some other health hazard.

- C. All structures shall be set back at least 10 feet from road rights-of-way and property lines adjoining non-industrial areas.
- D. A sight-obscuring fence or hedge with a buffer of trees and shrubs shall be planted and maintained between industrial/commercial facilities and neighboring residential parcels. The Planning Commission may impose other conditions to reduce any conflicts between industrial/commercial and other uses.

**2.70 FLOOD HAZARD OVERLAY ZONE, FH.**

**2.71 INTENT.** The Flood Hazard Overlay is designed to minimize public and private losses due to flooding and to fulfill the requirements of the National Flood Insurance Program.

**2.72 WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City, and officer, employee, or contractee thereof or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

**2.73 FLOOD HAZARD AREA: WILDHORSE CREEK AND WATERMAN GULCH.**

The Flood Hazard Area comprises the area within the 100-year flood plain boundary, excluding the “Floodway,” as illustrated on the Flood Boundary and Floodway Map (410206 0001) included as part of the Flood Insurance Study for the City of Athena issued by the Federal Emergency Management Agency (FEMA) on 16 January 1984. The Effective date of the mapping includes the floodplains of Wildhorse Creek and Waterman Gulch, and was prepared by the Walla Walla District Corps of Engineers in 1977 and 1979. NOTE: The “Floodway” is addressed in the special Floodway (Permanent Open Space) Zone, FW, and Section 2.80.

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**2.74 DEVELOPMENT PERMIT PROCESS.**

**A. Development Permit Required:** A Development Permit shall be obtained from the City before any construction project, grading, filling, or fence building occurs within the flood hazard areas. A Conditional Use Permit is required for any watercourse alteration.

**B. Permit Review:**

1. All development permits will be reviewed to determine that the requirements of this Ordinance have been satisfied.
2. State and Federal Permits: The city shall review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
3. Where elevation data is not available either through the Flood Insurance Study or by a study as required in Subsection 2.79 G of this Ordinance, the application for development permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test for reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

4. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Subsection 2.79 A are met and that the flood capacity and area of flooding are unaffected.
  5. Types of uses permitted within the flood hazard areas shall be determined by the underlying land use zones.
- C. Conditions of Approval: The City may place conditions of approval on any development permit issued in this zone if said conditions are deemed necessary to mitigate hazards to the applicant's project or the neighboring or other impacted properties.

**2.75 USE OF BASE FLOOD DATA AND CERTIFICATION:**

- A. 100-Year Flood Elevation: Within the Waterman Gulch detailed study area of the Flood Insurance Study, the 100-Year flood elevations for the purposes of this zone. For the approximate Wildhorse Creek mapping, the city shall obtain, review, and reasonably utilize flood elevation data, records of high water marks, photographs, etc., to determine the elevation necessary to assure new construction will be reasonable safe from flooding.
- B. Certification of Flood Elevation and Flood proofing:
  1. Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection 2.79 G. the applicant shall obtain and city shall record the actual elevation (in relation to mean sea level) of the average ground level and the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  2. For all new or substantially improved flood proofed structures: The applicant shall verify and city shall record the actual elevation (in relation to mean sea level).
  3. The city shall maintain for public inspection all records pertaining to the provisions of this Ordinance.

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**2.76 ALTERATION OF WATERCOURSES.**

- A. The city shall notify the F.E.M.A., of Oregon Division of State Lands, Oregon Department of fish and Wildlife, Corps of Engineers, Umatilla County Planning Department, and immediate downstream jurisdictions to alterations or relocations of watercourses.
- B. No permit for a watercourse alteration or relocation may be approved without certification by the Soil Conservation Service, Corps of Engineers or registered engineer that the flood hazard upstream or downstream will not be worsened by the alteration or relocation.
- C. Altered or relocated portions of watercourse shall be maintained in such a manner that flood carrying capacity is not diminished.

**2.77 FLOOD HAZARD AREA BOUNDARIES.** The city may make interpretations as to the exact location of the boundaries of the flood hazard area when mapped boundaries do not reflect actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.

**2.78 PROVISIONS FOR FLOOD HAZARD REDUCTION.** In all areas of special flood hazards, the following standards are required:



**A. ANCHORING.**

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (FEMA's "Manufactured Home Installation in Flood Hazard Areas guidebook may be used for additional techniques).
3. All manufactured homes to be placed or substantially improved within the city's A zone shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base elevation and be securely anchored to an adequately anchored foundation system in accordance with the provision of subsection 2.78D.

**B. CONSTRUCTION MATERIALS AND METHODS.** The construction of all new structures and additions to existing ones shall comply with the following basic standards.

1. Construction using materials and utility equipment resistant to flood damage.
2. Construction using methods and practices that minimize flood damage.
3. Mechanical and electrical equipment including heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the component during conditions of flooding. In any case all electrical outlets shall be installed at least one (1) foot above the 100-year flood elevation.
4. Structures may be elevated on extended foundations, stem walls, pilings, columns, or saturation-stable compacted fill.

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**C. LOCATION OF STRUCTURES.** All buildings, fences, walls, hedges, and the like shall be sited so as not to obstruct the flow of flood waters, utilizing the following principles.

1. Locate buildings as far back from the floodway or watercourse channel as possible.
2. Locate buildings on the highest part of the site, if possible.
3. Locate buildings parallel to watercourse channels or the direction of historical flood flows.
4. Fences across the creek channel shall be designed to float up or easily breakaway during times of high water. Fences within the floodway or within 100' of the creek must either be of open construction (e.g. barbed link, or fixed boards as in a corral, they must be designed with gates or breakaway sections to allow the unobstructed passage of floodwaters.
5. Do not plant hedges across the direction of flood flows and when planting groups of trees or shrubs leave plenty of open space between clumps, taking into account the size and spread of shrubs at maturity.
6. No structure shall be located within 100' of the edge of Wildhorse Creek downstream of the formally designated "floodway", in the area for which a detailed study has not been conducted.

7. Manufactured dwelling parks and subdivisions shall be designed to insure that individual manufactured homes can be easily elevated one foot above the 100-year flood elevation and that the complex can be easily evacuated during floods.

**D. RESIDENTIAL STRUCTURES.** Residential structures, including manufactured homes: New construction and substantial improvements to any residential structure shall have the lowest floor, including the basement, elevated to at least one foot above the 100-year flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
2. The bottom of all openings shall be no higher than one foot above grade.
3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**E. NONRESIDENTIAL STRUCTURES.** New construction and substantial improvement of any commercial, industrial and other non-residential structure shall either have the lower floor, including basement, elevated to at least one foot above the base flood elevation; or, together with attendant utility and sanitary facilities shall:

1. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practices for meeting provisions of this subsection based on their development and/or review of the structural design, specification and plans. Such certification shall be provided to the city.
4. Non-residential structures that are elevated, and not flood proofed, must meet the same standards for space below the lowest floor as described in Section 2.78 E. 1 above.
5. Applicants flood proofing non-residential buildings shall be notified that flood insurance premiums will not be based on rates that are one foot below the flood proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

**F. NONHABITABLE STORAGE AND ACCESSORY BUILDINGS:** Buildings intended for use primarily for storage of vehicles, equipment, animals, or material need not be elevated above the 100-year flood elevation, but mechanical and electrical equipment and outlets must be elevated 1' above 100-year flood elevation.

**G. STREETS, DRIVEWAYS AND BRIDGES.** All new streets and all driveways shall be elevated so that they are not more than one foot below the 100-year or

relevant historical flood elevation, to insure ease of emergency access during times of flooding. New and replacement bridges must be designed to not increase the height of the 100-year flood elevation and to accommodate at least a 20-year flood flow.

#### **H. SUBDIVISION PROPOSALS.**

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

#### **2.79 ENFORCEMENT AND INTERPRETATION.**

- A. Encroachments: Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. Variances: Variances to the requirements of this overlay zone shall be processed in accordance with Section 60.6 of the National Flood Insurance Program, if the requirements at issue are those found in the NFIP, the variance shall be processed in accordance with Section 4.70 of this Ordinance.
- C. Structures on the National Register of Historic Places: Automatic waivers may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the

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National Register of Historic Places or the State Inventory of Historic Places, without regard to the variance procedures set forth in the remainder of this section.

- D. Appeals to Federal Floodplain Mapping and 100-year Elevation Determination: Persons disputing the mapping of the 100-year flood elevations of the Wildhorse Creek and Waterman Gulch floodplains shall file an appeal with the Federal Emergency Management Agency via Section 67 of the National Flood Insurance Program.
- E. Development Density: Within the flood hazard area when portions of a development site are required to be dedicated to the city as floodway rights-of-way or are otherwise prohibited from being developed, the City may use an overall density calculation rather than the minimum lot area requirements to determine the number of dwelling units allowed in the site. Setback and lot area standards may be varied by the City on the remainder of the site to accommodate the number of units allowed as if the entire project was outside the flood hazard area. All proposed variances must be presented on an overlay development plan, subject to modification and approval by the City.
- F. Evacuation Plans: Manufactured dwelling parks or subdivision developers shall file evacuation plans with the city and Umatilla County Emergency Service Department.

- G. Additional Information and Special Cases: The City may require a registered engineer's evaluation and Development plan or more detailed floodplain information for a proposed project. Also, uses not otherwise addressed in the standards of this zone may be determined by the city on a case-by-case basis. Action may be delayed while the city obtains expert information or advice or if the city requires more detailed information and planning from the applicant.

**2.80 FLOODWAY ZONE, FW.**

**2.81 INTENT:** The Floodway Zone is intended to protect and prevent the obstruction of critical floodway of waterman gulch.

**2.82 FLOODWAY MAPPING:** The floodway Zone comprises the area designated as "floodway" on the Flood Boundary and Floodway Map (410206 0001) included as part of the Flood Insurance Study for the City of Athena. This study was issued on 16 January 1984, and the effective date of the mapping is 16 July 1984.

**2.83 PERMITTED DEVELOPMENT.**

- A. Agricultural cropland and pastures.
- B. Private landscaping and gardens.
- C. Public or private parks, golf courses, and other non-structural recreation development.
- D. Fencing.
- E. Roads, streets, driveways, bridges, and parking lots.
- F. Wildlife Management.
- G. Stream bank erosion control.
- H. Channel improvement.

**2.84 PROHIBITED DEVELOPMENT.**

- A. Structures, including dwellings, manufactured homes, outbuildings, and farm buildings.

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- B. Land filling, unless balanced by an equal amount of excavation or in limited quantities as part of an erosion control project.
- C. Channel or floodway blockage.
- D. Substantial improvement to or replacement of existing non-conforming structures.
- E. Any fill in a floodway that will cause a rise in the base flood elevation.

**2.85 DEVELOPMENT STANDARDS AND ADMINISTRATION:** Sections 2.72, 2.74-2.79 of the FH, Flood Hazard Overlay zone shall apply in the FW, Floodway zone.

**ARTICLE 3. SUPPLEMENTARY DEVELOPMENT STANDARDS**

**3.10 CLEAR VISION AREAS.** A clear vision area is intended to promote traffic safety by limiting the development of sight-obscuring structures, fences, and landscaping on the corners of all property at the intersection of two streets or a street and a railroad.

**3.11 AREA IN QUESTION.** Clear vision areas occupy the triangular spaces at the corners of blocks. The edge of the street rights-of-way of the two streets intersecting at a block corner form two sides of the clear vision area, while the third side is obtained by drawing a line diagonally across the corner of the block from one street to the other. If the block

corner is rounded, the straight sides of the block are projected out to a point of intersection just off the corner of the block to form the sides of the clear vision area.

**3.12 SIZE OF AREA.** In a residential zone, the clear vision area shall extend 30 feet from the corner along both streets, or at alley intersections, 10 feet. In the M-GEN zone, the required distance is 15 feet from the corner. No clear vision area is required in the R-COM and C-CEN zones so as not to conflict with the sidewalk storefront form of development desired in the downtown area. Rather, traffic control will be provided at all downtown intersection.

**3.13 LANDSCAPING, FENCE, AND STRUCTURE LIMITATIONS.** No wall, fence, landscaping, structures, or temporary or permanent obstruction can be allowed to exceed a height of 2 ½ feet above the highest grade of the adjacent street within a clear vision area. However, trees exceeding this height may be located in the clear vision area providing all branches and foliage are removed to a height of 8 feet above the grade.

**3.20 LANDSCAPING.** Certain basic landscaping standards are required even though it is realized most applicants will provide trees and plantings on a development site anyway.

**3.21 GROUND COVER.** Areas of any residential or commercial property which are not paved or built upon shall be planted with ground cover, trees, or shrubs so as to prevent soil erosion and dust blowing from the property. A minimum of a complete ground cover of grass or some other dense, low-growing, quickly-spreading, plant shall be in place within six months after completion of the structures. Such planting should be in place before the start of winter rains if at all possible. Portions of industrial sites not needed for outdoor storage and not paved, graveled, or built upon shall also be planted with ground cover, trees, and shrubs.

**3.22 SHADE TREES.** At least 2 shade trees shall be planted for every 5000 square feet of site area in all residential and commercial zones for the express purpose of reducing energy consumption for summer cooling and winter heating, as well a for promoting a more attractive community.

**3.30 GRADING AND DRAINAGE.** The following standards and guidelines have been developed to encourage compatibility between future development and the natural landscape, thereby avoiding serious drainage, erosion, and runoff problems and promoting a more attractive community.

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### **3.31 GENERAL REQUIREMENTS**

- A. The design and construction of all developments shall make provision for the:
- Maintenance of natural drainage courses and features of a site
  - Protection of the soil surface from undue water and wind erosion
  - Minimizing of additional runoff due to surfacing of the land for roads, houses, and accessory facilities
  - Accommodation of runoff from the development in such a way that erosion or siltation is not induced on adjoining or downstream properties.
- B. Upon reviewing the natural characteristics of a particular site, the Planning Commission may require that the applicant develop a Conservation Plan approved by the Umatilla County Soil and Water Conservation District, such plan to be adopted and implemented as part of an approved Development Plan. Larger developments, such as manufactured dwelling parks, industrial facilities, and apartments, that are located on hillsides or along water courses, would usually be required to develop a Conservation Plan.

**3.32 GRADING AND EXCAVATION.** All grading and excavation projects shall be designed and carried out according to the following standards.

- A. All grading and excavation work shall be related directly to and necessary for the construction and maintenance of a project approved by a Development Permit.
- B. A grading plan shall be submitted as part of a proposed Development Plan at the time a Development Permit is applied for. The grading plan shall include the information required by Section 4.20.
- C. Use of land for home gardening is exempted from the requirements of this Section.
- D. The smallest practical area of land shall be disturbed and exposed at any one time.
- E. When land is exposed during development, the exposure shall be kept to the shortest practicable period of time.
- F. The development shall be fitted to the topography and soils to create the least erosion possible and blend in with the natural contours of the land.
- G. Wherever feasible, natural vegetation shall be retained and protected.
- H. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during construction.
- I. The permanent final vegetation and structures shall be installed as soon as practical.
- J. No top soil shall be removed from the site except for those areas intended for structures or to be covered by other man-made improvements shall be redistributed within the boundaries of the lands in question so as to provide a suitable base for seeding and planting vegetation.
- K. Excavation shall be limited to that required for the construction of basements, foundations, and other below-surface-level improvements.

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**3.33 DRAINAGE.** All development Plans shall provide for adequate drainage of the site, accommodation of storm or flood water runoff, and the preservation of existing drainage courses, according to the following standards.

- A. Increased runoff from project sites shall be reduced by minimizing the surface area covered by impervious paving and buildings, by encouraging the use of semi-pervious paving for patios, driveways, and walkways, and use of grass, shrubs, other vegetation, and pervious landscaping materials over the bulk of the site.
- B. Runoff should either drain away from structures or be channeled around them so as to prevent flooding of basements, garages, and living or working areas.
- C. In an effort to prevent runoff flowing full-force into downhill yards or ditches and thereby causing flooding the drainage system of a site shall include grassed swales or diversion ponds to capture runoff and hold it for a slower release. These impoundments can be easily and attractively incorporated in landscaping plans.
- D. Low areas that could collect standing water should be limited to specific locations on the site designed for this purpose.

- E. Where possible, drainage from the site shall be directly connected to an adequate drainage channel or watercourse.
- F. Any watercourse, drainageway, channel, or stream crossing a site shall not be obstructed and shall be protected by a drainage easement or right-of-way. These drainage channels may be incorporated into landscaping plans, but should be kept adequately wide and clear of brush and trees so as to accommodate runoff from uphill areas. Impoundments may be created along the channel, and trees may be planted along its banks. The bed of the channel should be grassed and large rocks may be incorporated into the design to slow the water down on steep stretches. The location of the channel may be altered somewhat, but in no way that would make the channel ineffective.
- G. Where topography or other conditions indicate a new drainage channel needs to be provided to adequately accommodate runoff from a project, the applicant shall obtain drainage easements across affected properties and construct the appropriate facilities from the project site to a connection with an existing adequate channel.
- H. Drainage easements and rights-of-way shall be dedicated to the City. Such dedications shall be conditions attached to the Development Permits for the project involved.
- I. When drainage channels are modified, bridged, or put into culverts under streets, the improvements shall be designed to accommodate the potential runoff from the upstream drainage area as developed according to the Comprehensive Plan.
- J. Drainage easements or rights-of-way must be of sufficient width to accommodate the potential runoff from the upstream drainage area as developed according to the Comprehensive Plan.
- K. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained as drainage ways.
- L. The Planning Commission may require that any proposed drainage system, easement dedication, or drainage channel modification and improvement be reviewed by the Umatilla County Soil and Water Conservation District or the

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City engineer. The recommendations of these agencies may be attached as conditions to the granting of a Development Permit or may result in the Planning Commission denying a Permit application. Any additional expenses created by such agency reviews will be assessed to the applicant as a supplemental fee.

**3.40 UTILITIES.**

**3.41 ELECTRICITY AND TELEPHONE LINES.** Connections to existing overhead lines and any new local electricity or telephone lines shall be placed underground. Existing overhead lines shall be replaced with underground installations at the end of their scheduled service life.

**3.42 MUNICIPAL WATER AND SEWER SERVICES.** All new developments, except as otherwise provided, shall connect up with the City water and sewer system in a fashion approved by the City public works officials, prior to occupancy.

**3.50 ACCESSORY USES, STRUCTURES, AND FACILITIES.** Accessory uses, structures, and facilities are permitted in any zone associated with an allowed use, subject to the provisions of this section.

**3.51 GENERAL REQUIREMENTS.** Various types of accessory uses, structures and facilities may be permitted providing they meet the following basic requirements:

- A. Subordinate to the principal use of structure.
- B. Contribute to the comfort, convenience, or efficiency of the activities conducted by the principal structure.
- C. Located on the same site as the principal use or structure served.
- D. Conform to the required yard area and maximum lot coverage standards set forth in Article 2 or this section.

**3.52 ACCESSORY DWELINGS.** For the primary purpose of allowing for the accommodation of family members or employees on the site of the principal dwelling or use, one accessory dwelling unit per site can be permitted subject to the following standards.

- A. Residential zones except R-MHP, R-APT, and R-COM.
  - Must be no larger than two thirds the floor area of the principal unit
  - Two bedrooms or less, with kitchen, bathroom, and living room
  - Meets the size standards for apartments as listed in the R-COM and R-GEN zones
  - Can be accommodated within the principal dwelling unit, or above a garage, or as a separate cottage.
  - Private exterior entrance
  - If the unit is a detached cottage, the lot area required is the minimum for duplexes; otherwise no additional site area is required above the minimum for single-family houses.
  - A single-wide manufactured home or a travel trailer may only be utilized if approved as a temporary use subject to review on a yearly basis; the minimum lot area should be 9000 sq. ft. totally, although this requirement may be waived in hardship situations.
  - One additional off-street parking space must be provided.

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**B. R-COM OR COMMERCIAL ZONES.**

- If the principal structure is a single-family residence, the above Residential zone standards apply.
- If the principal structure is a commercial building, the accessory unit shall be built to the same standard as an apartment within the zone, but may be built at ground level behind the principal structure, provided at least 200 square feet screened and landscaped patio is provided.

**C. R-MHP AND R-AFT ZONES:** accessory units are not necessary in these multi-family zones.

**D. INDUSTRIAL ZONES**

- If located on industrial sites, an accessory dwelling shall conform to the standards for a single-family house or manufactured home, complete with yard areas, shade trees, and parking.
- If located within or attached to an industrial building, the unit shall conform to the standards for apartments in the R-COM or Commercial



zones as stated above; also adequate sound-proofing and protection from noxious fumes or unpleasant odors shall be provided.

- Accessory dwellings in industrial zones shall only be used for caretakers or owners/managers as an industrial area is not suitable for general residential use.

**3.53 ACCESSORY STRUCTURES AND FACILITIES.** Such structures and facilities as parking lots, sheds, swimming pools, detached garages, patios, tennis courts, decks, gazebos, and workshops may be permitted subject to the following standards:

- A. Enclosed or open structures shall be painted or stained to match the finish of the principal structure and maintained in good condition.
- B. Structures and facilities may encroach on required side and rear yard areas provided they are set back at least five feet from the side or rear property lines.

**3.54 FENCES, HEDGES, AND FREE-STANDING WALLS.** Fences and free-standing walls may be built and hedges planted and maintained to a maximum height of 7 feet around the perimeter of a lot or anywhere within the lot, except that no wall, fence, or hedge may be greater than 2 ½ feet in height within 10 feet of the front property line. Fences and free-standing walls must be built of uniform material and not detract from the value and appearance of neighboring property.

**3.55 HOME OCCUPATIONS.** Small-scale occupations may be carried on in residences and related accessory buildings subject to the following standards:

- A. The home occupation shall be conducted in a manner that is compatible with the residential use permitted in the zone, and so that the character and appearance of the dwelling unit is not appreciably changed.
- B. Up to 30% of the gross floor area of the dwelling unit and accessory buildings may be utilized in the home occupation.
- C. Additional parking and traffic demand may not be greater than what would be generally acceptable in a residential area.

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- D. Any necessary outdoor storage areas shall not occupy more than 10% of the site and shall be screened from neighbors by a sight-obscuring fence or hedge 7 feet high.
- E. A home occupation creating excessive dust, odor, or noise much of the time will not be permitted. Machinery that would generate noise must be housed in an enclosed building with suitable sound-proofing.
- F. Not more than the equivalent of four full-time employees may be involved in home occupations on any one site.

**3.56 LIVESTOCK, POULTRY, AND GARDENING.** Nothing in this Ordinance is intended to preclude vegetable gardening, raising of fruit in an orchard, or other horticultural activities. Keeping of livestock and poultry is governed by Athena City Ordinance 446,

**3.57 OUTDOOR STORAGE.** Outdoor storage of vehicles, equipment, and supplies may be permitted subject to the following standards:

- A. No outdoor storage is allowed in front yard areas except for the parking of cars and other vehicles on driveways. Long-term storage of vehicles in driveways is prohibited.

- B. In residential and commercial areas, equipment and supplies storage areas shall be enclosed by a 7 feet high, sight-obscuring fence for both safety and aesthetic reason.
- C. No more than 10% of a residential site may be used for outdoor storage.
- D. Recreational vehicles may be stored in the back or side yards of building sites, provided they are screened from view from the street or immediately adjoining parcel.
- E. Storage of farm implements and vehicles should only take place on large parcels and may both occupy more than 10% of a site and not require fence enclosure.
- F. In industrial areas dangerous supplies or equipment should be stored within locking fences or other enclosures.

**3.60 OFF-STREET PARKING AND LOADING.**

**3.61 PARKING AREAS: AN ACCESSORY FACILITY.** Parking areas are considered to be accessory facilities supporting the role of the principal use or structure. In some instances off-street parking is required for a particular use and the provisions for the parking must be indicated on the Development Plan in order for a development permit to be issued for the principal use or structure. The provision and maintenance of required off-street parking is not required for a particular use, any voluntary parking provisions may be provided at a later date subject to issuance of a separate Development permit for the accessory facility.

**3.62 PARKING SPACE USE.** Required parking spaces shall be available for the parking of passenger vehicles for residents, customers, and employees only, not for the storage of materials or vehicles used in conducting the business or use.

**3.63 LOADING FACILITIES.** Loading facilities are also an accessory facility utilized in conducting a principal use. Loading of merchandise, passengers, etc. should take place from a separate, off-street loading dock or area so as to cause little interference with street traffic. Loading facilities may be shown on an original Development Plan or may be approved at a later date.

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**3.64 PARKING AND LOADING AREA DESIGN STANDARDS.**

- A. **LOCATION:** Required parking spaces shall be provided no more than 500 feet from the structure or use they are designed to serve.
- B. **SURFACING:** All off street parking spaces, driveways, and loading areas, except those in suburban residential areas and industrial districts shall be hard-surfaced with concrete, asphalt, oil mat, or similar surfacing material so as to prevent dust and mud problems. Such surfaces in the suburban and industrial areas should at least be graveled.
- C. **ACCESS:** Groups of more than four off-street parking spaces shall be served by a driveway or aisle so that no backing movements or other maneuvering within a street other than an alley will be required. Driveways or aisles shall be clearly and permanently marked and defined through the use of bumper rails, fences, walls, painting, or other appropriate markers and shall not be considered as parking spaces, except for single-family houses and manufactured homes.
- D. **YARD ENCROACHMENTS:** In a residential area, no parking shall be allowed in the front yards other than on a driveway.

- E. **OTHER STANDARDS:** Other design standards affecting parking and loading are provided in the zone descriptions.

### **3.65 OFF-STREET PARKING REQUIREMENTS.**

- A. **RESIDENTIAL USES:** Off-street parking spaces are required for all residential uses and are listed in the Development Standards subsection of the appropriate zones.
- B. **COMMERCIAL:** Off-street parking for customers is not required of commercial uses located in the downtown area due to the small size of lots in the area. Much parking can be provided on the street for now. However, in the future, downtown businessmen and the City should cooperate to purchase and install small parking lots to serve all the businesses and offices in the downtown area. Parking must be provided for employees, however. The number of required spaces shall be determined by consultation of full- and part-time employees projected, hours of operation, location of the business, etc.
- C. **INDUSTRIAL AND COMMERCIAL USES IN INDUSTRIAL DISTRICTS:** Employee and customer parking shall be provided in industrial districts so that on-street parking in adjoining areas is kept available for use by the neighborhood residents.
- D. **COMMUNITY FACILITIES AND OTHER CONDITIONAL USES:** Parking requirements for conditional uses shall be determined during consultation with the Planning Commission.

**3.66 JOINT USE.** Owners of two or more uses, structures, or parcels may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, providing a written agreement to this effect is prepared and presented to the Planning Commission.

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### **3.70 SIGN CONTROLS.**

#### **3.71 RESIDENCES**

- A. One name plate or home occupation sign shall be allowed on each dwelling unit. These signs shall not be larger than four square feet in area.
- B. House numbers shall be placed on the front of all dwelling units.
- C. Signs not larger than 12 sq.ft. may be placed on or at the entrances to apartments and manufactured dwelling parks.
- D. One sign shall be allowed per lot advertising the property for sale, lease, or rent and the sign shall not exceed six square feet. A “for sale” sign shall not be allowed to remain on the property after the property is sold.
- E. Signs may be illuminated by exterior lights.
- F. One sign shall be allowed per subdivision, advertising lots or homes for sale. Such sign shall not exceed fifty square feet in area and shall be set back at least twenty feet from the nearest street.

#### **3.72 COMMERCIAL BUILDINGS.**

- A. Signs shall be set back at least ten feet from any residential property.
- B. Moving or flashing signs are prohibited.
- C. Total area of all signs shall not exceed one square foot per 100 sq. ft. of the building's ground floor area.
- D. No sign shall project above the roof edge of the building containing the business which the sign identifies.
- E. Signs visible from residential properties shall be shielded or directed so as not to constitute a nuisance to residential property owners and shall not interfere with, confuse, or mislead a vehicle operator.
- F. Street numbers shall be placed on the front and rear facades of each building or shop.

**3.73 INDUSTRIAL FACILITIES.**

- A. Signs shall be set back at least ten feet from any residential property.
- B. Moving or flashing signs are prohibited.
- C. Signs visible from residential properties shall be shielded or directed so as not to constitute a nuisance to residential property owners and shall not interfere with, confuse, or mislead a vehicle operator.

**3.80 EXCEPTIONS.**

**3.81 PROJECTIONS FROM BUILDINGS.** Cornices, eaves, gutters, and other architectural features of the building may project up to two feet into a required yard area. Sunshades and canopies and related features may project up to five feet into required yard area.

**3.82 HEIGHT EXCEPTIONS.** The following types of structures or structural features are not subject to the building height limitations of this ordinance: chimneys, church spires, belfries, clock towers, radio and television antennae, flagpoles, smoke stacks, and other similar projections.

**3.83 LOT SIZE EXCEPTIONS.** If a given tax lot recorded in the office of the County Clerk prior to the effective date of the ordinance has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the tax lot may be occupied by an allowed use in the normal fashion.

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**3.84 FLEXIBLE STANDARDS FOR CLUSTERED HOUSING.** To accommodate townhouses, patio homes, or other types of clustered single-family housing units, the side yard and lot size standards may be varied. Other Standards may not be waived. Side yards may be eliminated altogether and lot sizes may be reduced to 2000 square feet, but no more than 10 dwelling units may be built for each gross acre of site area. Of the remainder of the site, at least 80% is to be left in permanent landscaped open space and recreation facilities and up to 20% may be used for common guest parking and driveway areas; all common land is to be maintained by a homeowners association. In this manner, 10 townhouses on 20,000 square feet of park area, landscaping, and tennis courts could be developed on a 1-acre site. Developments proposed by the Planning Commission pursuant to Subsection 4.12 c.

**3.85 DEPRESSED AREAS.** In any zone, open work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed yards, stairs, or retaining walls, may be located in required yard areas.

**ARTICLE 4. ADMINISTRATION**

## **4.10 DEVELOPMENT PERMIT PROCEDURE.**

### **4.11 APPLICATION PROCESS.**

- A. Development Permit applications shall be obtained from and submitted to the City Recorder. All applications shall include the information required in Section 4.20.
  - 1. Within three (3) working days of receiving development permit applications for a conditional use permit quasi-judicial zone/plan change, variance, or other land use decisions, the city recorder shall notify the acting chairman of the Planning Commission and send copies of the application to all Planning Commission members.
  - 2. One copy of a development permit application for a permitted use or structure remains with the City Recorder. No other copies need to be made or sent to the Planning Commission Chair or members.
  
- B. The application will be placed on the agenda of the next regular Planning Commission meeting unless an emergency is found to exist. In the event of an emergency, a special meeting may be scheduled.

### **4.12 APPROVAL PROCEDURES.**

#### **A. PERMITTED USES.**

- 1. Applications for permitted uses and structures, except those covered in 4.12 B, C, and D, do not require a hearing process.
- 2. The City Recorder shall review the proposed use or development plan for compliance with the provisions of this ordinance and the comprehensive plan and either approve, disapprove, or conditionally approve the application so long as the application meets set-back, material, and height requirements. The City Recorder may require that certain alterations listed under Subsection 4.43 be made to the proposed development plan; these changes shall be written on the application form and the application conditionally approved.
- 3. The City Recorder, at his or her discretion, may forward any application to the Planning Commission.

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- 4. The City Recorder will mail the decision to the applicant within three (3) working days after the decision is made. The County Assessor's Office will be mailed a copy of all approved and conditionally approved Development Permits.
  - 5. If the applicant objects to the proposed alterations they may request that their application be given further review by the Planning Commission at the next regular meeting. Applications seeking further review will follow the approval procedure set-out for conditional use applications.
- 
- B. Conditional Uses: Development permit applications for conditional uses involve a quasi-judicial procedure and are subject to the requirements of Sections 4.30 and 4.40.
  - C. Larger projects: For development of some complexity, including, but not limited to apartments, manufactured dwelling parks, community facilities, and commercial and industrial facilities in excess of 5,000 sq. ft. of floor area, a sketch plan of the development shall be submitted to the Planning Commission for discussion and review with the applicant prior to submittal of the Development Plan on the permit

application. In this manner major differences can be worked out and problems identified before final plans are engineered.

- D. Developments in the Flood Hazard Zone:** Prior to granting approval for a development within the Flood Hazard zone, and in addition to the normal, review, the Planning Commission shall require that the applicant submit copies of all necessary permits required by federal, state, or local government agencies. Development proposals within the designated Floodway shall not be approved unless certification by a registered engineer or architect is submitted that demonstrates the development will not cause an increase in flood levels during a base flood occurrence.

**4.13 RECORD OF THE PERMIT AND APPLICATION.** All Development Permit applications and the action taken upon them will be kept on file with the City Recorder. All correspondence, copies of other required permits, etc. regarding a particular application will also be kept on file for future reference.

**4.14 INSPECTION.** A member of the Planning Commission or city employee shall be appointed to inspect each development to insure that the project is being carried out as approved by the City. For construction projects, this inspection will take place at the time foundation forms are laid out and at the time of completion of the project. The builder will notify the City Recorder who will in turn contact a member of the Planning Commission to inspect the project as soon as possible. For changes in use, inspection will occur only when the changeover is completed. No fee will be charged for the inspection and it is the responsibility of the Planning Commission member to conduct the inspections so that projects that are being done properly are not delayed.

**4.15 PROJECT CHANGES.** If the applicant decides upon a significant change in the design of the project after having been granted a Development Permit, the applicant shall reapply for a new Development Permit so the revised proposal can be reviewed by the Planning Commission.

**4.16 TIME LIMIT.** A Development Permit shall be void after one year unless construction has commenced on the structure involved or the change of use is underway.

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**4.20 FORM OF PETITIONS, APPLICATIONS, AND APPEALS.** Petitions, applications, and appeals provided for in this ordinance shall be made on forms available from the City Recorder and shall be accompanied by any filing fee established by the City Council.

**4.21 DEVELOPMENT PERMIT APPLICATIONS:** Development Permit applications shall include the following information:

**A. Development Plan:** drawn to scale

- Shape and dimensions of the lot or lots to be built upon.
- Size and locations of existing and proposed structures and facilities
- Intended use of the structures
- Location of any off-street parking
- Grading and drainage plans
- Other proposed improvements

**B. Surrounding Property:**

- Map of the streets and lots abutting the property

- Names and addresses of property owners within 100 feet (exclude for out-right permitted uses.)

**C. Other information:**

- Name and address of property owner and applicant
- Whether the proposed use is conditional or permitted
- Any other site development information required for a Building Permit application
- Legal description of the lot or lots involved

**D. If the proposed development is located within the Flood Hazard zone, the following additional information is required:**

- Elevation in relation to mean sea level, of the lowest floor (including the basement) of all structures
- Elevation in relation to mean sea level to which any structure has been flood proofed
- Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria contained in Section 2.70.
- Description of the extent to which any watercourses will be altered or relocated as a result of proposed development.

Only B. and C. above are required for applications involving only a change of use of an existing structure, unless the applicant proposes to make other improvements to the site when the use is changed.

**4.30 REQUIREMENTS FOR QUASI-JUDICIAL LAND USE HEARINGS.**

**4.31 PUBLIC, POSTED, AND WRITTEN NOTICE.** Written notice of quasi-judicial hearings before the Planning Commission or City Council shall be provided to the applicant and to record owners of property within 100 feet no less than 20 days before the first evidentiary hearing or, if two hearings are allowed, no less than 10 days before the first hearing. If the application is for a

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change to the Comprehensive Plan, implementing ordinance or the zoning map then 45 calendar day notice of the hearing must be given to DLCD.

**A. The notice provided shall:**

1. Explain the nature of the application and the proposed use or uses which could be authorized;
2. List the applicable criteria from the ordinance that apply to the application at issue;
3. Set forth the street address or other easily understood geographical reference to the subject property;
4. Include a map designating zones and boundaries of the subject and adjacent properties;
5. State the date, time and location of the hearing;
6. State that the failure of an issue to be raised at the hearing, in person or by letter, or the failure to provide sufficient specificity to afford the hearing body an opportunity to respond to the issue precludes appeal to the board based on that issue;

7. Be mailed at least twenty calendar days before the hearing;
8. Include the name of the city representative to contact and the telephone number where additional information may be obtained;
9. State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost at least seven (7) calendar days prior to the hearing and copies will be provided at reasonable cost upon request;
10. State that a copy of the staff report, if made, will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and that copies will be provided at reasonable cost upon request; and
11. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings including standing requirements.

**4.32 SUBMITTAL OF EVIDENCE.** Applicant shall submit all documents or evidence relied upon to the City of Athena prior to the time notice is to be provided pursuant to Subsection 4.31 A.7.

**4.33 AVAILABILITY OF DOCUMENTS.** Any staff report used at the hearing shall be available to the public at least seven (7) calendar days prior to the hearing. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing upon request to the hearing body. Such a continuance shall not be subject to limitations or ORS 227.178.

**4.34 FAILURE TO RECEIVE NOTICE.** The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given.

#### **4.40 QUASI-JUDICIAL HEARING PROCEDURE.**

**4.41 SUBJECT MATTER FOR HEARINGS.** The procedures set forth in this section shall be followed when the subject matter of a hearing is a conditional use permit, quasi-judicial zone/plan change, variance, appeal from a decision of the City Recorder pursuant to Section 4.12 A. 4., or other land use decision.

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**4.42 PURPOSE OF PROCEDURE.** The Chair of the hearing shall follow the procedures set forth in Section 4.43. It is the purpose of this procedure to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for an impartial hearing on the application. Any question concerning the conduct of a hearing shall be addressed to the Chair with a request for a ruling. Rulings from the chair shall be made in light of the stated purpose of these procedures. Any ruling made by the Chair may be modified or reversed by a majority of those members of the hearing body present and eligible to vote on the application before the hearing body.

**4.43 ANNOUNCEMENTS AT BEGINNING OF PROCEDURE.** The procedures for the conduct of hearings under this section are as follows:

- A. At the commencement of the hearing, the Chair, or the Chair's designee shall ascertain whether a quorum is present. A quorum is necessary to conduct the hearing and to deliberate. The Chair shall explain the nature of the application, and list the applicable substantive criteria per Section 4.50, 4.60, and 4.70 of this Ordinance, the Comprehensive Plan or state statute.



- B.** The Chair shall then request abstentions by members of the hearing body. Prior to abstaining the member shall explain the basis for his/her abstention. No member of the hearing body shall participate in discussion of the application or vote on the application when:
  - 1.** Any of the following has a direct or substantial financial interest in the proposal: the member of the hearing body or his spouse, brother, sister, child, parent, or like relative of his spouse, any business in which he/she is then serving or has served within the previous two years, or any business with which he/she is negotiating for or has an arrangement or understanding concerning prospective partnership or employment;
  - 2.** He/she owns property within the area entitled to receive notice of the public hearing; or
  - 3.** He/she has a direct personal interest in the proposal.
- C.** The Chair shall then poll the hearing body members for ex parte contact, pre-hearing bias or a conflict of interest regarding the application.
  - 1.** Pre-hearing contact should simply be reported and the decision-maker remain on the board.
  - 2.** Pre-hearing bias or conflict of interest should cause the decision-maker to step down from that particular hearing issue.
- D.** The Chair shall then provide an opportunity for questioning of the hearing body members by interested persons as to a hearing body member's qualifications to hear the application or appeal. Based upon the disclosures of the hearing body members or any challenges by interested persons, the Chair should then entertain motions by any members. A member may be disqualified if a majority of the hearing body determines that a member is biased in favor of or against the applicant or proposal;
- E.** The Chair shall state the rules of conduct for the hearing:
  - 1.** No person shall testify without first being recognized by the Chair and stating his/her full name and residence address.
  - 2.** No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
  - 3.** There shall be no audience demonstrations such as applause, cheering, display, or signs, or conduct disruptive of the hearing. Such

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- conduct may be cause for immediate termination of the hearing by the hearing body.
- 4.** No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- 5.** Testimony and evidence must be directed toward the applicable substantive criteria. Failure to raise an issue with sufficient specificity to afford the hearing body and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
- F.** The Chair, members of the hearing body and with the approval of the Chair, the City Attorney, and any other officer or employee of the City may question any person who testifies.
- G.** No other officer or employee of the City who has a financial or other private interest or has previously participated in a hearing on the application 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.

- H. The hearing body may set such time limitations for hearings or testimony provided that proponents and opponents are given equal time for presentation of evidence and argument.
- I. Any participant of the hearing may request a continuance before the conclusion of the initial evidentiary hearing if new evidence or evidence which was not equally available prior to the hearing is brought forward for consideration.

#### **4.44 PROCESS DURING THE HEARING.**

- A. The Chair may request:
  - 1. The reading of the staff report;
  - 2. The proponent's case;
  - 3. Other testimony or evidence in support of the application;
  - 4. The opponent's case;
  - 5. Other testimony or evidence against the application;
  - 6. Testimony or evidence concerning the application, which by its nature is neither in favor nor against;
  - 7. Rebuttal, which should be limited to comments on evidence in the record.

#### **4.45 DELIBERATIONS.**

- A. The Chair shall then close the hearing and the hearing body shall commence deliberations. The hearing body's deliberations may include questions directed to City staff, comments from City staff, or inquiries directed to any person present. If new evidence, conditions or modifications not presented in the staff report are raised after the close of the hearing, an opportunity shall be provided for any person to comment on or rebut that evidence or information.
- B. When the hearing body reopens a record to submit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.

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- C. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) calendar days after the hearing. Such an extension shall not be subject to the limitations of ORS 227.178.
- D. During deliberations, the decision-making body has three options:
  - 1. Render a decision with findings to approve or deny the application which includes:
    - (a) basic facts of who, what, where, why, and when;
    - (b) review criteria; and
    - (c) facts showing how the proposal relates to the review criteria.
  - 2. Determine that there is not enough information to render a decision and continue the public hearing to a specified date and time; and
  - 3. Schedule the deliberations to a specified date and time.

If the hearing or deliberations are continued to a specified date and time, no additional advertising is necessary.

**4.46 FINAL DECISION.** Within five (5) working days after closing the hearing and rendering a decision by a majority of the quorum, the Planning Commission shall adopt a written decision and notify by mail the applicant and all parties to the hearing of the decision. The decision shall be based upon the record of the proceeding. The written decision is the final decision on the application and the date of decision is the date the application is signed by the Planning commission Chair and the City Recorder during a public meeting of the Planning Commission or City Council. If the application is approved, the approved application will constitute the Development Permit, and three copies of the Permit will be sent to the applicant. Conditional approvals will be handled in the same manner as other approvals, except that the required conditions shall be stated on the Permit. The County Assessors Office will be sent a copy of all approved and conditionally approved Development Permits. Appeals of the Final Decision of the Planning Commission follow the procedural requirements described in Section 4.94.

**4.50 CONDITIONAL USES.**

**4.51 REVIEW.** In evaluating a conditional use proposal, the Planning Commission will examine the design, site plan, characteristics, and location of the proposed use, noting the following:

- access, traffic generation and traffic flow
- parking needs and provision
- potential noise or odor problems
- aesthetic impacts
- compliance with zoning standards and City policies, especially the comprehensive Plan
- compatibility with the neighborhood
- reaction of the neighbors
- measures that can be taken to reduce any negative impacts

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**4.52 APPROVAL.** To approve a conditional use proposal, the Planning Commission must decide that the proposed use:

- A. complies with the objectives of the Comprehensive Plan and other relevant City policies
- B. will serve a useful purpose to the community
- C. complies with appropriate standards of the Zoning Ordinance and other applicable City ordinances
- D. is compatible with the surrounding neighborhood
- E. will preserve any existing natural or historic features desired by the community
- F. can be designed so as to reduce potential negative impacts to both neighboring parcels and the surrounding area in general
- G. will actually be developed with the features required by the Planning Commission to reduce impacts.

**4.53 PLACING CONDITIONS.** In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the community as a whole. These conditions may include the following:

- A. Limiting the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- B. Establishing a special yard or other open space or lot area or dimension.
- C. Limiting the height, size or location of a building or other structure.
- D. Designating the size, number, location and nature of vehicle access points and off street parking spaces.
- E. Increasing the amount of street dedication, roadway width or improvement within the street right-of-way.
- F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or truck lading area.
- G. Limiting or otherwise designating the number, size, location, height, and lighting of signs.
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding.
- I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.
- J. Designating the size, height, location and materials for a fence.
- K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or another significant natural resource.
- L. Imposing other conditions to permit the development of the city in conformity with the intent and purpose of the conditional classification of uses.

**4.54 APPLICATION AND PROCESSING.** The Development Permit procedure is used to process a request for a conditional use. In addition to the requirements of Section 4.10, the applicant must show that the proposed conditional use reasonably meets the need recognized by the ordinance.

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**4.55 BONDING.** The Planning Commission may require the applicant to post bond up to the amount of the cost of meeting conditions and standards specified by this ordinance for the Planning Commission. The bond shall be returned upon proof by the applicant that the conditions and standards have been met. If conditions and standards required are not met within one year, and an extension has not been granted, the bond shall be forfeited and the city may institute proceedings under Sub-Section 4.93 of this ordinance.

Prior to issuing the permit, the Planning Commission will require the applicant to sign a statement indicating he has read over the conditions and will honor them as the project is developed.

**4.60 NON-CONFORMING USES AND STRUCTURES.** This section applies to structures or uses in existence at the effective date of the Ordinance or any amendments, which do not conform to the requirements of the zone in which it is located or the standards of Article 3.

**4.61 CONTINUATION.** To be fair to pre-existing development this ordinance does not require that a non-conforming use be closed down or a non-conforming structure be altered to comply with the zone regulation and development standards. However, if a non-conforming structure or a structure housing a non-conforming use is more than 80% destroyed (based on assessed valuation); the structure or use cannot be re-established as it was. Also, if a non-conforming use is discontinued for more than one year, the use cannot be re-activated on the site in question.

**4.62 STRUCTURAL ALTERATION.** Any additions to a non-conforming structure shall conform to the requirements of this Ordinance, even though the original structure does not.

**4.63 EXPANSION OF A USE.** A non-conforming use may expand its operations so long as additional floor area utilized does not exceed 50% of the floor area the use occupied when it became non-conforming.

**4.70 VARIANCES.**

**4.71 AUTHORIZATION TO GRANT OR DENY VARIANCES.** The Planning Commission may authorize variances from the requirements of this Ordinance where it can be shown that owing to special and unusual circumstances relating to a specific piece of property, strict application of the ordinance would cause an undue or unnecessary hardship. No variance may be granted to allow uses not permitted within the zone in which the proposed site is located. In granting variances the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this ordinance.

**4.72 CIRCUMSTANCES FOR GRANTING A VARIANCE.** A variance may be granted only in the event that ALL of the following circumstances exist:

- A. Exceptional or extraordinary circumstances apply to the property which does not apply generally to other properties in the same zone or vicinity, and which result from lot size or shape, topography, or other circumstances over which the owner of the property, since the enactment of this ordinance, has no control.
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the zone or vicinity possess.
- C. There is a public need for the purpose to be achieved by the variance.
- D. The public need is reasonably met by the variance.

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- E. The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same zone or vicinity in which the property is located.
- F. The variance is in compliance with and is not a deviation from the comprehensive plan for the city.
- G. The variance requested is the minimum variance which would alleviate the hardship.

**4.73 PROCEDURE.** A property owner seeking a variance applies for a Development Permit, noting the request is for a variance. The procedures for processing conditional uses are then utilized, with a public hearing to be held, etc.

**4.74 TIME LIMIT.** Authorization for a variance shall be void after one year unless substantial construction has taken place. However, the Planning Commission may extend authorization for a period not to exceed one additional year on request.

## **4.75 ADJUSTMENTS**

### **A. Purpose**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### **B. Procedure**

Requests for an adjustment are reviewed by the Planning Commission at a public hearing.

### **C. Regulations Which May and May Not Be Adjusted**

1. Eligible regulations. Unless listed in Subsection 2., any regulations in this ordinance may be modified using the adjustment review process.

B. Ineligible regulations. Adjustments are prohibited for the following items:

1. To allow a primary or accessory use that is not allowed by the regulations;
2. As an exception to any restrictions on uses or development which contain the word "prohibited";
3. As an exception to a threshold for a review or As an exception to a qualifying situation for a regulation, such as zones allowed or items being limited to new development.
4. As an exception to a definition or classification.
5. As an exception to the procedural steps of a procedure or to change assigned procedures.
6. To allow an increase in density in the residential zones.

### **D. Approval Criteria**

Adjustment requests will be approved if the Planning Commission finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met.

1. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and
2. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area; and
3. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and
4. City-designated scenic resources and historic resources are preserved; and
5. Any impacts resulting from the adjustment are mitigated to the extent practical.

## **E. Time Limit**

Authorization for an adjustment shall be void after one year unless substantial construction has taken place. However, the Planning Commission may extend authorization for a period not to exceed one additional year on request.

**4.80 TEMPORARY USE PERMITS.** The Planning Commission may issue a temporary use permit to allow the short term use of a site by a mobile or temporary structure or activity. Such structures or activities may not be ordinarily allowed in the particular zone, but are necessary for some useful purpose, and, because of the temporary nature, will not adversely impact the neighborhood or city. The Planning Commission may require that certain measures be taken to protect neighboring uses or the city as a whole. Temporary use permits will be processed in the same manner as development permits and may be granted for any period of time up to one year, subject to renewal if necessary.

### **4.90 INTERPRETATION, ENFORCEMENT, AND APPEALS.**

**4.91 INTERPRETAION.** Words used in the present tense include the future, the singular form includes the plural, and plural includes the singular. Where a provision of this ordinance is less restrictive than a provision of another ordinance or requirement of the city, the provision which is more restrictive shall govern.

**4.92 AUTHORIZATION OF SIMILAR USES.** The Planning Commission may rule that a use not specifically listed among the allowed uses in a zone shall be permitted, if it is similar to the allowed uses in the zone, provided the effect of the proposed use on adjacent properties is substantially the same as that allowed use in another zone.

**4.93 PENALTY.** A person violating a provision of this ordinance shall, upon conviction, be fined according to the fee schedule. A violation of this ordinance shall be considered a separate offence for each day that the violation continued.

In the alternative, where a use exists or is proposed to be located, constructed, repaired, altered, or used in violation of this ordinance, the city may institute injunction, abatement or other appropriate proceedings to prevent, abate or remove such use.

**4.94 APPEAL.** An action or ruling of the Planning Commission authorized by this ordinance may be appealed to the City Council by filing written notice with the City Recorder within ten (10) calendar days after the Commission has mailed notice of its decision. If no appeal is taken within the 10 day period, the decision of the Planning Commission shall be final. If an appeal is filed, the City Clerk shall provide notice and the City Council shall hold a public hearing as provided in Sections 4.30 through 4.46 on the appeal before making a decision. A City Council decision may be appealed to the land use Board of Appeals

(L.U.B.A.) LUBA appeals must be filed within twenty-one (21) calendar days of the final decision of the City Council. When a decision is made for a change to the implementing ordinance or the zoning map, then the 21 day appeal period of the City Council begins after

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the Notice of Adoption is sent to DLCD. An appeal from the City Recorder's decision will go to the Planning Commission and will follow the process of an appeal from the Planning Commission.

**4.95 SEVERABILITY.** The provisions of this ordinance are severable. If an article, sentence, clause or phrase shall be adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

### **4.100 AMENDMENTS.**

**4.101 INITIATING AMENDMENTS.** The adoption of a complete comprehensive plan or a major revision to it, or a new zoning ordinance or a major revision to it, may be initiated by the City Council, the Planning Commission, or a property owner. A property owner requesting an amendment will file an application with the City Recorder. The proposed amendment is then reviewed and approved through a legislative process.

**4.102 REQUIREMENTS FOR LEGISLATIVE HEARINGS.**

- A. NOTICE TO DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT (DLCD).** The City of Athena is required to submit a Notice of Proposed Amendment to the DLCD, 45 calendar days prior to the final hearing on the issue.
- B. PUBLISHED NOTICE.** Notice of a public hearing on an amendment to this Ordinance or Comprehensive Plan shall be published in the East Oregonian and Valley Herald at least ten (10) calendar days prior to the date of the hearing.
- C. POSTED NOTICE.** A hearing notice stating simply who, what, where, why, and when will be posted in the Post Office and at City hall continuously beginning at least ten (10) calendar days prior to the date of the hearing.

**4.103 LEGISLATIVE HEARINGS.**

**4.104**

- A.** A public hearing shall be held by the Planning Commission on any proposed amendment to the zoning ordinance or Comprehensive Plan, at its earliest practical meeting after the amendment is proposed.
- B.** Prior to a legislative hearing it is appropriate for decision-makers to make contact with citizens in order to understand their views on the proposed amendment and to prepare a series of legislative findings indicating the rationale for adopting or denying the proposed amendment.
- C.** During the hearing the chair of the Planning Commission explains the nature of the hearing and asks for people to give testimony of the proposed amendment.
- D.** At the close of the hearing the Planning Commission shall, within forty (40) calendar days after the hearing, recommend to the City Council approval, disapproval, or conditional approval for the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council will also hold a public hearing on the proposed amendment before making a decision.

**4.105 WRITTEN NOTICE OF DECISION.** Within five (5) working days of a final decision and adoption of an amendment:

- A.** the applicant will be sent a letter stating the decision and the findings which support the decision;
- B.** a Notice of Adoption form shall be mail to DLCD.

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**4.106 RECORD OF AMENDMENTS.** The City Recorder shall maintain a record of amendments to the text and maps of this Ordinance in a form convenient for use by the public.

**4.107 LIMITATION ON REAPPLICATIONS.** No application of a property owner for an amendment to the text map of this Ordinance shall be considered within the one-year period immediately following a denial of such request, unless the Planning Commission feels evidence or a change of circumstances warrants re-evaluation of the application.



**4.110 TAX LOT REARRANGEMENTS.**

**4.111 SCOPE.** Any realignment or partitioning of tax lots within the platted areas of the City must be reviewed and approved by the Planning Commission before the tax lots can be altered by the Umatilla County Assessor's Office. Partitioning of tax lots within unplatted areas is regarded as a "minor partition" and is subject to the provisions of the Subdivision Ordinance.

**4.112 APPLICATION PROCESS.** While creation of new lots is governed by the Subdivision Ordinance, rearrangement of tax lots within existing subdivisions is a less complex action and can be dealt with via the Development Permit process of the Zoning Ordinance. The applicant shall obtain a Development Permit application from the City Recorder and supply the introductory information. Instead of preparing a Development Plan, the applicant shall submit a copy of the appropriate Umatilla County Tax Assessor's map with the proposed tax lot realignment or partition indicated in red. The dimensions and square footage of each resulting tax lot shall be written on this map.

**4.113 REVIEW AND APPROVAL.** The review and approval process for a tax lot rearrangement shall be the same as for a Development Permit and is subject to quasi-judicial actions. The Planning Commission may require that the proposed rearrangement be revised before approving the application.

**4.114 NOTIFICATION.** A letter shall be sent to the applicant and the Umatilla County Tax Assessor stating the action taken on the application. If the tax lot rearrangement is approved, a copy of the approved application and accompanying map will also be sent.

**4.120 ANNEXATIONS.**

**4.121 INITIATION OF ANNEXATION PROPOSALS.** A proposal for annexation of territory to the city may be initiated by the City Council on its own motion or by a petition to the City Council by owners of real property in the territory to be annexed.

**4.122 WRITTEN CONSENT FOR ANNEXATION.**

A. Property owners who petition the city for annexation of their territory must file with the city a written statement of consent to the annexation. Statements of consent to annexation filed with the City Council by owners of land are public records under ORS 192.410 to 192.500.

B. The city may solicit statements of consent under ORS 222.170 from owners of land in order to facilitate annexation of unincorporated territory to the city.

**4.123 COUNTY ASSESSOR VALUATION.** When an annexation of territory is proposed, the City shall request from the County Assessor a statement showing for the current fiscal year the assessed valuation of the taxable property in the territory to be annexed.

**4.124 PUBLIC HEARING.** The City Council shall hold a public hearing on the proposed annexation after all consent statements of annexation and the County Assessors statements are filed. The hearing procedure shall be the same as what is found in Section 4.40. Notification requirements of the hearing are found per section 4.31.

**4.125 PROCLAMATION OF ANNEXATION.** After the hearing, the City Council may, by an ordinance containing a legal description of the territory in question; declare that the territory is annexed to the city where landowners in the contiguous territory consented in writing to such annexation.

- 4.126 FILING OF ANNEXATION RECORDS.** When an ordinance for annexation has been declared, the City Recorder shall mail to the Secretary of State, Department of Revenue, and County Assessor:
- A. A copy of the resolution or ordinance proclaiming the annexation.
  - B. A copy of the statements of consent.
  - C. A copy of the ordinance issued under ORS 222.120(4)(b).

**4.127 EFFECTIVE DATE OF ANNEXATION.** The annexation shall be complete from the date of filing with the Secretary of State of the annexation records.

**4.128 REPORT OF CITY BOUNDARY.** The City Recorder shall report to the County Clerk and County Assessor all changes in the boundaries established by the city. The report shall be filed by the city within ten (10) days from the effective date of the change of any boundary lines.

**4.129 NOTICE TO PUBLIC UTILITIES.** Within 30 days after the effective date of the annexation, the notice shall include a legal description and map of the annexed territory, a statement containing the effective date of the annexation and a copy of the order, resolution or ordinance proclaiming the annexation.

Revised and approved 4/10/20132013

Passed by the council and approved by the Mayor November 15, 2007.

(Formerly Ord. #391 then 432; re-codified November 2007)