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## GENERAL PROVISIONS

### CHAPTER 10

#### GENERAL

##### 10.000 Purpose and Scope

- (1) In accordance with the provisions of Oregon Revised Statutes Chapters 92, 197, 227, and 696, Chapters 10 to 14 set forth the standards and procedures governing the development and use of land. Furthermore, the purpose of these Chapters shall also be to protect the environment of the City and promote the general health, safety and welfare of the public, by providing for:
  - a. A precise guide for the physical development of the City;
  - b. Adequate opportunity for citizen involvement in the community development process;
  - c. Preservation of agricultural lands and conservation of forest lands;
  - d. Protection of life and property from natural disasters and hazards when and where possible;
  - e. Orderly and efficient provision of public facilities and services;
  - f. Satisfaction of recreational needs of the City and its visitors;
  - g. Provision of adequate numbers of housing units at price ranges and rent levels commensurate with broad range of financial capabilities;
  - h. Flexibility of housing location, type and density;
  - i. Conservation of energy;
  - j. A safe, convenient and economic transportation system;
  - k. An orderly and efficient transition from rural to urban land use;
  - l. An efficient system of administering the procedures of these Chapters;
  - m. An understandable and usable document with a complete set of definitions;

- n. Appropriate development of sites compatible with the neighborhood;
- o. Reduction of adverse impacts on public facilities and services;
- p. A healthful, stable, efficient and pleasant environment.

- (2) **FORMAT.** It is the purpose of these Chapters to accomplish the objectives set out above, in as simplified a manner as possible and to provide standards and procedures which will be as convenient as possible for the citizens of the City. To this end, this document has been drawn as a one step document for land use matters for the City of Klamath Falls. The format is such that a citizen will be able to find the procedure for whatever land use action is contemplated through the use of this one document.

[Amended by Ordinance 00-09, enacted May 1, 2000]

- (3) **STANDARDS AND DEFINITIONS.** The standards employed in these chapters are the means by which the public interests are protected in such a format. They also allow the intermixing of uses formerly thought incompatible under standard zoning ordinances. This approach helps to obtain the objectives of maximum flexibility in land interests.

The expanded definitional section is utilized to provide as much guidance as possible to anyone using this document. It also acknowledges the Oregon Supreme Court's comment in Anderson V. Peden, 284 Or 313, 569 P2d 633 (1978) where they noted it is more helpful to provide definitions than to assume the definition is known. Many of these definitions have been taken from state statutes or court decisions of the state. The purpose of doing this was to use definitions which have already been construed, or which in the future may be construed, thereby providing even more guidance in the use of this document.

- (4) **ADMINISTRATIVE REVIEW.** In an attempt to cut down the amount of time involved in making land use decisions, this document has given certain ministerial authorities to the Director. The purpose here is to provide more responsiveness to citizens and to quicken the resolution of land use matters for the benefit of all parties concerned. Time delay is one of the major problems in land use matters and the procedures contained herein will minimize that delay.

- (5) **PLANNED UNIT DEVELOPMENT.** The purpose of the Planned Unit Development zone is to provide for the classification and development of parcels of land as coordinated, comprehensive projects so as to take advantage of the superior environment which can result from large scale community planning. The Planned Unit Development authorization serves to encourage developing as one project

tracts of land that are sufficiently large to allow a site design for a group of structures. Furthermore, the Planned Unit Development provides the flexibility necessary to facilitate the desired mixing of residential, commercial and industrial uses in accordance with appropriate development and use standards. The planned approach is appropriate if it maintains compatibility with the surrounding environment. It should either promote a harmonious variety or grouping of uses, or utilize the economy of shared services and Unit Developments to take into account the following:

- a. Advances in technology and design
- b. Recognition and resolution of problems created by increasing population density.
- c. A comprehensive development superior to that resulting from traditional lot by lot land use development, in which the design of the overall unit permits increased freedom in the placement and uses of buildings and the location of open spaces, transportation facilities, off street parking areas and other facilities.
- d. The potential of sites characterized by special features of geography, topography and shape.
- e. The height and bulk characteristics of buildings may vary as long as the ratio of site area to dwelling units and openness of the site will be in harmony with the area in which the proposed development is located. The regulations of this zone are intended in a physical and environmental arrangement while ensuring substantial compliance with the spirit, intent and provisions of these Chapters. This zone is designed to include various types of land uses, such as single family residential developments, multiple housing developments, professional and administrative areas, commercial centers, industrial parks, public facilities, or any combination of said uses, through the adoption of a development plan and text materials which set forth land use relationships and development standards.

- (6) **SENSITIVE AREAS.** The Council finds that within the City of Klamath Falls, there are environmentally sensitive areas, which if developed without careful planning and regulation, are subject to environmental problems, including the despoliation or elimination of these resources. Unsuitable development in natural resource areas is detrimental to the public health, safety and general welfare, contributes to pollution, creates nuisances and impairs educational, recreational, scientific, aesthetic, and conservation resources of the area. Furthermore, extraordinary public expenditures are often required for the protection of persons

and property after inappropriate development has occurred. Therefore, it is the purpose of the Special Reserve zone to maintain the integrity of the natural resources and environmental quality of the City of Klamath Falls and to preclude the need for extraordinary public expense resulting from inappropriate or poorly sited development. Furthermore, it is the intent of this zone to permit compatible land uses in such areas, to require specific review and approval of those uses appropriately planned and sited and to prohibit those uses which are incompatible with the maintenance of appropriate uses.

- (7) **GEOTHERMAL OVERLAY ZONE.** The purpose of the Geothermal Overlay Zone is to support the prudent conservation and management of the City's geothermal resources, in such a manner as to be environmentally sound and economically beneficial for the community.
  
- (8) **FLOODPLAIN HAZARD OVERLAY ZONE.** It is the purpose of the Floodplain Hazard Overlay zone to regulate the use of those areas subject to periodic flooding and to permit and encourage the retention of open land uses that are compatible and harmonious in nature. In advancing these principles and the general purpose of this Ordinance, the specific intent of this zone is:
  - a. To combine with present zoning requirements certain restrictions made necessary for the known floodplains to promote the general health, welfare and safety of the citizens of Klamath Falls;
  
  - b. To prevent the establishment of certain structures and land uses in areas unfit for human habitation because of the danger of flooding, unsanitary conditions, or other hazards;
  
  - c. To minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage; and
  
  - d. To permit certain uses which can be strategically located in the floodplain and which will not impede the flow of floodwaters, or otherwise endanger life and property at, above, or below the location of such uses within floodplain.

**10.005 Conformance to the Comprehensive Plan.** All actions initiated under the provisions of Chapters 10 to 14, shall conform to the Comprehensive Plan duly adopted by the City of Klamath Falls and all applicable State and Federal laws and regulations. All provisions of said Chapters shall be construed in conformity with said Comprehensive Plan.

**10.010 Definitions.** As used in Chapters 10 to 14, the following words and phrases, unless the context otherwise requires, shall mean:

**ACCESS.** The right to cross between public and private property, allowing pedestrians and vehicles to enter and leave property.

**ACCESS AISLE.** A accessible pedestrian space between site elements, such as parking spaces.  
[Added by Ordinance 00-09, enacted May 1, 2000]

**ACCESSIBLE.** Describes a site, building, facility, or portion thereof that complies with accessibility standards and that can be approached, entered and used by physically disabled people.

[Added by Ordinance 00-09, enacted May 1, 2000]

**ACCESSIBLE ROUTE.** A continuous unobstructed path connecting all accessible elements and spaces in a building or facility. Exterior accessible routes may include parking access aisles, curb ramps, walks and ramps.

[Added by Ordinance 00-09, enacted May 1, 2000]

**ACCESSORY STRUCTURE OR USE.** An accessory is one which is supplementary or subordinate to the principal use of a building and which is not contained within the main building. Accessory uses of buildings must be one which:

- (1) Is subordinate in area, extent, or purpose to the main buildings or principal use served; and
- (2) Contributes to the comfort, convenience, or necessity of occupants of the main building or principal use served;
- (3) Is located external to the main building but on the same lot as the main building or principal use served.

[Amended by Ordinance 6413, enacted January 3, 1983]

**ACTIVE RESTORATION.** See **RESTORE.**

**ADMINISTRATIVE/PROFESSIONAL SERVICES OFFICE.** The administrative/professional service office refers to offices of firms or organizations which are primarily used for professional, executive, management or administrative services. Typical uses include but are not limited to physician or practitioner of the healing arts, dentists, engineers or surveyors, investment or management counselor, insurance and/or tax services.

**ADULT BUSINESS.** Any person, group, firm, business or organization which discriminates by prohibiting admission to all or a portion of the premises to any persons on the basis of their age including those under twenty one (21).

[Added by Ordinance 96-7, enacted March 4, 1996]

**ADULT USE.** A use of whatever character, conducted on the premises of an adult business, which use is conducted in the area in which any persons are prohibited on the basis of their age, including those under twenty one (21).

[Added by Ordinance 96-7, enacted March 4, 1996]

**ADVERTISING.** The publication or causing to be published or broadcast of any material relating to disposition of interests in a land development or other land use matter which has been prepared for public distribution by any means of communication.

**AGENT.** Any person with authority who represents, or acts for or on behalf of another person.

**AGRICULTURAL LANDS.** See **LAND.**

**AIR CONTAMINANT.** Dust, fumes, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, particulate matter, or any combination thereof.

**AIRPORT.** An area of land set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes and commonly known as the Klamath Falls Airport/Kingsley Field.

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

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

**ALLEY.** See **Street.**

**ANTENNA.** Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction and directional beam type arrays having elements carried by the disposed from a generally horizontal boom that may be mounted upon and rotated through vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

[Added by Ordinance 97-1, enacted January 6, 1997]

**APARTMENT.** See **DWELLING, MULTIFAMILY.**

**APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES.** These apply to the area under the approach, transitional, horizontal and conical surfaces defined in Part 77, Objects Affecting Navigable Air Space, Federal Aviation Regulations, as now or hereafter

published by the Federal Aviation Administration (FAA) of the Department of Transportation.

**AREAS OF SPECIAL FLOOD HAZARD.** See **FLOOD**.

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

**ARTERIAL.** See **STREET**.

**ARTIFACT.** A simple object showing human workmanship or modification.

**AWNING.** An Awning is a temporary shelter supported entirely from the exterior wall of a building, composed of non-rigid materials which are either stationary or can be retracted, folded or collapsed against the face of the supporting building.

[Added by Ordinance 96-19, enacted July 1, 1996]

**AXES.** An axes is a straight line around which all surrounding activities and structures focus.

[Added by Ordinance 96-19, enacted July 1, 1996]

**BABYSITTER.** A person who provides day care services for children if the compensation therefore is paid directly by the parent or legal guardian or if the service is provided without any compensation in either of the following:

- (1) The home of the parent or guardian; or
- (2) The home of the babysitter;
  - a. if the service is provided for not more than five children for eight or more hours in a 24 hour period; and
  - b. if the service is provided for not more than four other children for not more than three consecutive hours and not more than six total hours in a 24 hour period but for not more than a total of nine children including the babysitter's children at any one time.

**BALCONY.** A balcony is a platform projecting from the exterior wall, enclosed by a railing, supported by brackets or columns or cantilevered.

[Added by Ordinance 96-19, enacted July 1, 1996]

**BANNER.** Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges.

[Added by Ordinance 97-13, enacted May 5, 1997]

**BASE FLOOD.** See **FLOOD.**

**BASEMENT.** That portion of the building between the floor and ceiling which is partly below and partly above grade.

**BEACON.** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light sources; also, any light with one or more beams that rotate or move.

[Added by Ordinance 97-13, enacted May 5, 1997]

**BED AND BREAKFAST FACILITIES.** Facility which provides temporary travelers accommodations and breakfast, for a fee, on a daily or weekly room rental basis, as an accessory use in an existing structure designed for and occupied as a single family residence.

[Added by Ordinance 6543, enacted November 2, 1987]

**BERM.** Berm means an earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

[Added by Ordinance 96-19, enacted July 1, 1996]

**BIKEWAY.** See **STREET.**

**BILLBOARD.** A sign which has a flat surface sign space upon which advertising may be posted, painted, or affixed and which is primarily designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists.

**BLOCK.** An area of land within a land development which area is entirely bounded on all sides by streets or highways (except alleys) or railroad rights of way, unsubdivided land, or water courses.

**BOARDING HOUSE.** A building or portion thereof without separate housekeeping facilities to be occupied or which is occupied primarily by persons paying consideration for sleeping purposes where meals may or may not be provided.

**BUILDABLE AREA.** That area of a lot on which a structure can be built, excluding area reserved for yard set backs and parking and taking into consideration the maximum lot coverage.

**BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING LINE.** A line on a plat or map indicating the limit within which buildings or structures may be erected.

**BUILDING MARKER.** Any sign indicating the name of a building and date and incidental

information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

[Added by Ordinance 97-13, enacted May 5, 1997]

**BUILDING MOUNTED ANTENNA.** Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building mounted mast less than ten feet (10') tall and six inches (6") in diameter or structure other than a telecommunication tower.

[Added by Ordinance 97-1, enacted January 6, 1997]

**BUILDING SIGN.** Any sign attached to any part of a building, as contrasted to a freestanding sign.

[Added by Ordinance 97-13, enacted may 5, 1997]

**CANOPY SIGN.** Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy. In those instances where a canopy is composed of a translucent material and is backlit, the entire canopy surface shall be considered sign area.  
[Added by Ordinance 97-13, enacted May 5, 1997]

**CHANGEABLE COPY SIGN.** A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered a moving sign and not a changeable copy sign for purposes of this act. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.  
[Added by Ordinance 97-13, enacted May 5, 1997]

**CHILD.** Any person under 15 years of age.

**CHILD CARING FACILITY.** A residence or building used to provide substitute residential care for children as provided for under ORS 418.950.

**CHILD TREATMENT CENTER.** A residence or building used to provide counseling, training or other educational services during a part of the twenty four hours of the day to children who are emotionally or developmentally disabled.

**CITIZEN.** Any person within the planning area.

**CITY.** The City of Klamath Falls, Oregon.

**CITY COUNCIL.** The City Council of Klamath Falls, Oregon.

**COLLOCATED TELECOMMUNICATION FACILITY.** A telecommunications facility comprised of a single telecommunication tower or building supporting one or more antennas, dishes or similar devices owned or used by more than one public or private entity.  
[Added by Ordinance 97-1, enacted January 6, 1997]

**COLLECTOR.** See **STREET**.

**COMMERCIAL ENTERPRISE.** Any use of land, structures, or natural resources for profit or nonprofit involving activities not residential, public facility, or industrial in character.

**COMMERCIAL MESSAGE.** Any sign wording, logo or other representation that, directly or indirectly names, advertises or calls attention to a business, product, service or other commercial activity.  
[Added by Ordinance 97-13, enacted May 5, 1997]

**COMMERCIAL SERVICE.** Any commercial enterprise which provides a useful labor that does not produce or involve the sale of a tangible commodity or good.

[Amended by Ordinance 6413, enacted January 3, 1983]

**COMMERCIAL TELECOMMUNICATION FACILITY.** A telecommunication facility that is operated primarily for a business purpose or purposes.

[Added by Ordinance 97-1, enacted January 6, 1997]

**COMMISSION.** The Planning Commission of the City of Klamath Falls, Oregon.

**COMMON BOUNDARY or COMMON BOUNDARY LINE.** See **PROPERTY LINE**

[Added by Ordinance 95-9, enacted September 5, 1995]

**COMMON PROPERTY LINE.** See **PROPERTY LINE.**

[Added by Ordinance 95-9, enacted September 5, 1995]

**COMMON PROPERTY.** See **PLANNED UNIT DEVELOPMENT.**

**COMPREHENSIVE PLAN.** The Klamath Falls Comprehensive Plan, which interrelates all functional and natural systems and activities of a general nature relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the Plan.

**CONDITIONAL USE.** A use which is permitted within a given zone only when certain conditions have been or will be met as provided under that zone or as a part of the criteria and procedures established in Sections 12.720 to 12.750.

**CONSTRUCTION SIGN.** A temporary sign announcing subdivision, development, construction or other improvement of a property by a building contractor or other person furnishing services, materials or labor to the premises, but does not include a "real estate sign".

[Added by Ordinance 97-13, enacted May 5, 1997]

**CONTIGUOUSLAND.** Lot or parcel touching, adjoining, and connected as distinguished from a lot or parcel separated by another lot or parcel.

**CONICAL ZONE.** See **APPROACH ZONE.**

**CORNER LOT.** See **LOT.**

**CORNICE.** A cornice is a horizontal projecting part that crowns the wall of a building.

[Added by Ordinance 96-19, enacted July 1, 1996]

**COUNCIL.** The City Council of Klamath Falls, Oregon.

**CROSS SECTION.** A profile of the ground surface perpendicular to the center line of a street, stream, valley bottom, or similar physical feature.

**CROWN COVER.** The ratio between the amount of land shaded by the vertical projection of the branches and foliage area of standing trees to the total area of land, usually expressed as a percentage.

**CUL DE SAC.** See **STREET**.

**CURB LINES.** The line dividing the roadway from the planting strip or sidewalk.

**DAY CARE.** Care provided to a child during a part of the 24 hours of the day, with or without compensation. "Day care" does not include care provided:

- (1) In the home of the child;
- (2) By the child's parent, guardian, or person acting in loco parentis;
- (3) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;
- (4) On an occasional basis by a person not ordinarily engaged in providing day care;
- (5) By providers of medical services; or
- (6) By a babysitter.

**DAY CARE FACILITY.** Any facility that provides day care to three or more children, including a day nursery, nursery school group, family day care home or similar unit operating under any name but not including any:

- (1) Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day.
- (2) Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion.
- (3) Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby

group.

- (4) Facility operated by a school district, political subdivision of this state or a governmental agency.
- (5) Residential facility licensed under ORS 443.400 to 443.445 and subsection (2) of 443.991.
- (6) Facility operated by a babysitter.

**DECORATIVE ELEMENTS.** The term decorative elements refers to amenities such as landscaping, seating areas, art work (sculptures), etc.

[Added by Ordinance 96-19, enacted July 1, 1996]

**DENSITY BONUS.** An increase in density over that permitted in a zone that may be granted according to the provisions of Section 12.960.

**DEVELOP.** To bring about growth upon or availability of land; to construct or alter a structure; to conduct a mining, dredging, filling, or similar operation; to make a material or physical change in the use or appearance of land; to divide land into lots or parcels; or to create or terminate rights of access.

**DEVELOPMENT.** The act, process, or result of developing.

**DEVELOPER.** Any person who creates or proposes to create a development and includes any agent of a developer.

**DIRECTOR.** The Planning Director of the City or his or her designee.

[Amended by Ordinance 97-13, enacted May 5, 1997]

**DIVERSITY.** The variety of natural, environmental, economic and social resources, values, benefits, and activities.

**DUPLEX.** See **DWELLING.**

**DWELLING.** Any one or combined number of dwelling units.

- (1) Single family dwelling. A detached building containing one dwelling unit.
- (2) Duplex, or two family dwelling. A detached building containing two dwelling units.
- (3) Multifamily dwelling. A building containing three or more dwelling units.

**DWELLING UNIT.** A building or any portion of a building, which is located upon a concrete or masonry foundation and which is designed for occupancy as complete independent living quarters for one or more persons having direct access from the outside of the building or through a common hall and having living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants.

**EASEMENT.** A nonpossessory interest in the land of another which entitles the owner of the interest to a limited use or enjoyment of the other's land and protection from interference with this use.

**ELECTRONIC MEDIA.** The dissemination of radio, television, or similar communications intended to be received by the public, directly or by intermediary or relay stations.

**EMPLOYEES.** All persons normally working for the employer during the largest shift. The estimated number of employees of a new business shall be determined by the Director and the number of employees of an established business shall be determined from an examination of the payroll of the largest shift.

**ENCUMBRANCE.** A trust deed, mortgage, mechanic's lien, or any other lien of financial indebtedness, securing or evidencing money debt and affecting lands.

**EXEMPT VEGETATION.** The mature height and breadth of any existing vegetation greater than eight feet in height at the time a solar access permit is applied for.  
[Added by Ordinance 6536, enacted August 17, 1987]

**EXISTING.** In place or authorized by City permit at the time of application.  
[Added by Ordinance 6535, enacted August 17, 1987]

**FACADE.** A facade is the whole exterior of the building that can be seen at one view; strictly speaking, the principle front.  
[Added by Ordinance 96-19, enacted July 1, 1996]

**FAMILY.** An individual or two or more persons related by blood, marriage, or adoption, or a group of not more than five persons not related by blood, marriage or adoption, living together in a dwelling unit.

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

**FASCIA.** The fascia is the decorative trim or panel projecting from the face of a wall.  
[Added by Ordinance 96-19, enacted July 1, 1996]

**FILL.** The placement by man, of sand, sediment, concrete, or other material, usually in submerged lands or wetlands, to create new uplands or raise the elevation of land. Fill shall also include a properly engineered sanitary landfill.

**FLAG.** Any fabric, banner or bunting containing distinctive colors, patterns or symbols used as a symbol of a government, religious, civic or fraternal organization, education institution or corporation, except such a flag which a reasonable third person would perceive to be used in connection with a commercial promotion or advertising device.

[Added by Ordinance 97-13, enacted May 5, 1997]

**FLOOD OR FLOODING.** A general and temporary condition of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

- (1) **Areas of Special Flood Hazard.** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- (2) **Base Flood.** The flood having a one percent chance of being equalled or exceeded in any given year.
- (3) **Flood Fringe.** The area of the floodplain lying outside of the floodway, but subject to periodic inundation from flooding.
- (4) **Flood Hazard Boundary Map.** An official map furnished by the federal agency responsible for flood prevention and control, and adopted in accordance with the provisions of Sections 10.305 to 10.315, labeled a Flood Hazard Boundary Map and delineating the boundaries of areas of special flood hazard.
- (5) **Flood Insurance Rate Map.** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (6) **Floodplain.** The area adjoining a stream, river, or lake that is subject to regional flooding. A regional flood is a standard statistical calculation used by engineers to determine the probability of severe flooding. It represents the largest flood which has a one percent chance of occurring in any one year in an area as a result of periods of higher than normal rainfall or stream flows, high winds, rapid snow melt, natural stream blockages, or combinations thereof.
- (7) **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.



**FLOOD AREA.** The area included within surrounding walls and upon each level of a building, or portion thereof, exclusive of vents, shafts, and courts. The floor area of a building, or a portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

**FREESTANDING SIGN.** Any sign supported by structures or supports that are placed on or anchored in the ground and that are independent from any building or other structure.  
[Added by Ordinance 97-13, enacted May 15, 1997]

**FRONTAGE, BUILDING.** The horizontal linear dimension of that side of a building that abuts a street, a parking area, a mall or other circulation area open to the general public and that has either the primary window display of the enterprise or the primary public entrance to the building; in industrial districts, the building side with the primary entrance open to employees is considered the building frontage. Where more than one use occupies a building, each such use having a primary window display or a primary public entrance for its exclusive use is considered to have its own building frontage, which is the front width of the portion of the building frontage occupied by that use.  
[Added by Ordinance 97-13, enacted May 5, 1997]

**FOREST LANDS.** See **LAND**.

**FOREST USES.** The uses which pertain to the following:

- (1) the production of trees and the processing of forest products;
- (2) open space, buffers from noise and visual separation of conflicting uses;
- (3) watershed protection and wildlife and fisheries habitat;
- (4) soil protection from wind and water;
- (5) maintenance of clean air and water;
- (6) outdoor recreational activities and related support services; and
- (7) grazing land for livestock.

**FRONT YARD.** See **YARD**.

**FRONTAGE.** All property fronting on one side of a street line, between intersecting and intercepting streets or between a street and right of way, waterway, end of a dead end street, or city boundary.

**GARAGE, PRIVATE.** An accessory structure or portion of a main building used for the parking, storage, care, or repair of vehicles owned or used by occupants of the main building.

**GARAGE, PUBLIC.** A building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire, or sale.

**GOAL.** A statement of intention expressing community values and attitudes intended to provide a guide for action by the community.

**GROUND LEVEL.** The average elevation of the undisturbed natural ground, measured at the proposed location of the foundation for any structure. For purposes of determining the average elevation, the average elevation of each segment of the foundation or building footprint will be computed.

**GROUND MOUNTED ANTENNA.** Any antenna with its base placed directly on the ground or a mast less than ten feet (10') tall and six inches (6" 0 in diameter).

[Added by Ordinance 97-1, enacted January 6, 1997]

**GUIDELINES.** The suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid cities, counties, state agencies, and special districts in the preparation, adoption and implementation of plans, programs, and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state agencies, cities, counties, and special districts to a single approach.

**H.** As used in the mathematical formulas contained in this Ordinance, this letter represents the height of the highest shade producing point.

[Added by Ordinance 6535, enacted August 17, 1987]

**HALF STREET.** See **STREET.**

**HEIGHT.** The vertical distance from the ground level to the highest point of the coping of a flat roof or to the maximum height of the highest gable of a pitched roof or hip roof. For the purpose of determining the height limits in all airport hazard zones set forth in Chapters 10 to 14 and shown in the Airport Hazard Zoning Map, the datum shall be mean sea level (MSL) elevation, unless otherwise specified.

**HIGH INTENSITY RECREATION.** See **RECREATION.**

**HIGHEST SHADE PRODUCING POINT.** On a structure, the point that casts the longest shadow at noon on December 21, unless deemed exempt. Exempt structural elements are those which meet one of the following criteria:

- (1) They are radio or television aerials, chimneys or utility poles; or

- (2) They cast a shadow area of no greater than 15 square feet above the maximum allowed shadow height at the northern lot line (see diagram in Exhibit O).

[Added by Ordinance 6535, enacted August 17, 1987]

**HISTORIC DISTRICT.** Any one or more of the following:

- a. Those blocks containing one or more primary or secondary historical buildings or structures as identified in Klamath Falls Cultural Resource Survey, Ward Tonsfeldt Consulting, October 30, 1986.
- b. Those blocks containing one or more buildings or structures identified in Statewide Inventory of Historic Sites and Buildings, Oregon Department of Transportation, 1976.
- c. A geographical area within the City limits, adopted by resolution or ordinance as a historic district.

[Added by Ordinance 95-3, enacted February 21, 1995]

**HISTORIC LANDMARK.** A historical building or structure identified in the National Register of Historic Places.

[Added by Ordinance 95-3, enacted February 21, 1995]

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

**HISTORICAL SIGNIFICANCE.** Historical Significance means that the site or structure (1) has character interest or value, as part of the development, heritage or cultural characteristics of the City, State or Nation; (2) is the site of an historical event with an effect upon society; (3) is identified with a person or group of people who had some influence on society; or (4) exemplifies the cultural, political, economic, social or historic heritage of the community.

[Added by Ordinance 96-19, enacted July 1, 1996]

**HOME OCCUPATION.** An occupation carried on within a dwelling or accessory building by members of a family with no servant, employee, or other person being engaged within said dwelling or building. The residential character of the property is maintained and the home occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term. It does not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes for which purpose the residential zone was created and primarily intended.

**HORIZONTAL ZONE.** See **APPROACH ZONE**.



**HOSPITAL.** An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.

**HOTEL.** A building for which lodging is provided for guests for compensation and in which no provision is made for cooking in the rooms.

**HYDRAULIC.** Related to the movement of pressure or water. Surface hydraulic hazards are those associated with erosion or sedimentation caused by the action of water flowing in a river or stream bed.

**HYDRODYNAMIC.** Of or relating to the motion of fluids and the forces acting on solid bodies immersed in fluids.

**HYDROLOGIC.** Relating to the occurrence and properties of water. Hydrologic hazards include flooding (the rise of water) as well as hydraulic hazards associated with the movements of water.

**HYDROSTATIC.** Of or relating to liquids at rest or to the pressures they exert or transmit.

**ILLUSION.** A sign with optical illusion of movement by means of a design giving the illusion of motion or changing a copy, including without limitation a sign that presents a pattern capable of reversible perspective.

[Added by Ordinance 97-13, enacted May 5, 1997]

**IMPROVEMENTS.** Those structures providing services to man which shall include but are not limited to curbs, gutters, sidewalks, street lights, street signs, roadbed, road surface, storm drains and appurtenances, fire hydrants, sanitary sewer and appurtenances, domestic water systems and underground utilities.

**INCIDENTAL SIGN.** A sign, generally information, that has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone" and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

[Added by Ordinance 97-13, enacted May 5, 1997]

**INDUSTRIAL.** Any use of land, structure or natural resources involving the manufacturing, warehousing, transportation, processing, assembly or disassembly of semi-finished or finished products from raw materials or the reverse thereof, or similar treatment of packaging of previously prepared materials.

[Amended by Ordinance 97-8, enacted April 7, 1997]

**INTEREST IN LAND.** Ownership of a lot, parcel, share, unit, undivided interest, membership or similar interest in a land development or a lessee's interest for more than one year in same.

**INTERIOR LOT.** See **LOT.**

**KICKPLATE.** A solid area between the ground and the bottom of the display window, protects the window by raising the glass area to a safer and more easily viewed height.

[Added by Ordinance 96-19, enacted July 1, 1996]

[Amended by Ordinance 00-09, enacted May 1, 2000]

**LAND.** The solid part of the surface of the earth and water, both surface and subsurface, and the air.

- (1) **Agricultural Lands.** Land of predominantly Class I, II, III, IV, V, and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, of other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands shall be included as agricultural lands in any event.
- (2) **Forest Lands.** Lands pertaining to the following:
  - a. Lands composed of existing and potential timber stands which are suitable for commercial forest uses;
  - b. Other timber stands needed for watershed protection, wildlife and fisheries habitat and recreation;
  - c. Lands where extreme conditions of climate, soil, and topography require the maintenance of vegetation cover irrespective of use; and
  - d. Other timber stands in urban and agricultural areas which provide urban buffers, windbreaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use. See also **FOREST USES.**

**LAND DEVELOPMENT.** The subdividing or partitioning of land for any purpose, into lots or parcels or the creation of lots, units or parcels for the purposes of sale or lease for a term of more than one year and including the creation of a planned unit development. The term also includes the intent to dispose of any land whether contiguous or not, including any land divided into lots, parcels, or units, which are offered as a part of a common promotional plan of advertising and disposition of land where the land development is offered for disposition by a single developer or a group of developers acting in concert. If the land is contiguous or is known, designated or advertised as a common unit or by a common name, the land shall be presumed, without regard to the number of lots covered by any individual offering, to be offered for disposition as part of a common promotional plan. The term also means an area or tract of land developed in a manner as

defined by Chapters 10 to 14.

**LCDC.** Land Conservation and Development Commission of the State of Oregon.

**LIGHT INDUSTRIAL.** Any industrial enterprise where activities and operations in no manner affect in a detrimental way any of the surrounding properties and where any adverse impacts are restricted to the subject property. Such uses shall not be adverse due to odor, particulate matter, smoke, noise, vibration, appearance, or similar impacts. Vehicular access to and use of streets shall be no greater than that generated by a commercial enterprise.

**LOCAL STREET.** See **STREET**.

[Amended by Ordinance 00-09, enacted May 1, 2000]

**LOT.** A portion of a parcel of land, including without limitation, a portion of a platted subdivision, occupied or intended to be occupied by a building or use and its accessories, together with yards required under the provisions of this code, that is an integral unit of land held under unified ownership or fee or cotenancy or under legal control tantamount to such ownership. When a lot is used together with contiguous lots for a single use or unified development, all of the lots so used shall be considered a single lot.

[Amended by Ordinance 97-13, enacted May 5, 1997]

- (1) **Corner Lot.** A lot at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.
- (2) **Interior Lot.** A lot other than a corner lot.
- (3) **Lot Area.** The total horizontal net area within the lot lines of a lot. Net area means that square footage of a lot that is free from public and private rights of way.
- (4) **Reversed Corner Lot.** A corner lot, the side street of which is substantially a continuation of the front line of the first lot to its rear.
- (5) **Through Lot.** A lot having frontage on two parallel or approximately parallel streets other than alleys.

**LOT LINE.** The property line bounding a lot.

- (1) **Lot Line, Front.** In the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner or through lot, a line separating the lot from the street on which the development or contemplated development will face.

- (2) **Lot Line, Rear.** A lot line which is opposite and most distant from the front lot line and in the case of an irregular, triangular or other shaped lot, a line ten feet in length within the lot parallel to and at the maximum distance from the front lot line.
- (3) **Lot Line, Side.** Any lot line not a front or rear lot line.

**LOW INTENSITY RECREATION.** See **RECREATION.**

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Section 14.205 (2).

**LUMEN.** A measurement of light equal to the light emitted in a solid angle by a uniform point source of one candle.

**MAINTAIN.** Support, keep and continue in an existing state or condition without decline.

**MAJOR PARTITION.** See **PARTITION.**

**MANAGEMENT UNIT.** A discrete geographic area, defined by physical characteristics and features, within which particular uses and activities are promoted, encouraged, protected or enhanced and others are discouraged, restricted or prohibited.

**MANUFACTURED HOME.** As defined in ORS 446.003(25)(a)(C).  
[Amended by Ordinance 93-20, enacted November 15, 1993]  
[Amended by Ordinance 96-19, enacted July 1, 1996]

**MANUFACTURED HOME PARK.** A manufactured home park is any place where four (4) or more manufactured homes are located within 500 feet (500') of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of or patronage of such person.  
[Amended by Ordinance 93-20, enacted November 15, 1993]  
[Amended by Ordinance 96-19, enacted July 1, 1996]

**MANUFACTURED HOME SUBDIVISION.** A manufactured home subdivision is a tract of land subdivided as defined in Chapters 10 to 14 for the purpose of selling lots for the placement of four (4) or more manufactured homes.  
[Amended by Ordinance 93-20, enacted November 15, 1993]

[Amended by Ordinance 96-19, enacted July 1, 1996]

**MAP.** For purposes of partitioning, a final diagram, drawing, or other writing concerning a major or minor partition.

**MARGINAL ACCESS STREET.** See **STREET.**

**MARQUEE.** Any permanent roof like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally design and constructed to provide protection from the weather.

[Added by Ordinance 96-19, enacted July 1, 1996]

[Amended by Ordinance 97-13, enacted May 5, 1997]

**MARQUEE SIGN.** Any sign attached to, in any manner or made a part of a marquee.

[Added by Ordinance 97-13, enacted May 5, 1997]

**MINOR ANTENNA.** Any of the following:

- (1) A ground or building mounted, receive only radio or TV antenna whose total height including any mast to which it is attached is less than twenty feet (20');
- (2) A ground or building mounted citizens band radio antenna whose total height including any mast to which it is attached is less than twenty feet (20');
- (3) A single ground or building mounted whip (omni) antenna without a reflector less than 4 inches (4") in diameter whose total height including any mast to which it is attached is less than twenty feet (20');
- (4) A ground or building mounted panel antenna with a face area of less than 4½ square feet;
- (5) A ground or building mounted satellite dish less than ten feet (10') in diameter; or
- (6) A ground, building or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service.

[Added by Ordinance 97-1, enacted January 6, 1997]

**MINOR PARTITION.** See **PARTITION.**

**MOBILE HOME.** As defined in ORS 446.003(25)(a)(B).

[Amended by Ordinance 6413, enacted January 3, 1983]

[Amended by Ordinance 93-20, enacted November 15, 1993]

[Amended by Ordinance 96-19, enacted July 1, 1996]

**MODULAR HOME.** A prefabricated structure as defined in ORS 455.020(6). For purposes of this ordinance, a modular home is a single family dwelling.

[Amended by Ordinance 93-20, enacted November 15, 1993]

**MOTEL.** A building or group of buildings on the same lot containing guest units with separate entrances and consisting of individual sleeping quarters, detached or connected, with or without cooking facilities, for rental to transients.

**MOVING SIGN.** A sign with visible moving, revolving or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic or mechanical means, except for traditional barber poles; time, temperature, date signs; and signs displaying a comparable degree of movement as a time, temperature, date sign.

[Added by Ordinance 97-13, enacted May 5, 1997]

**MULTIFAMILY DWELLING.** See **DWELLING.**

**MULTIPLE USER TELECOMMUNICATION FACILITY.** A telecommunication facility comprised of multiple telecommunication towers or buildings supporting one or more antennas owned or used by more than one public or private entity.

[Added by Ordinance 97-1, enacted January 1, 1997]

**N.** As used in the mathematical formulas contained in this Ordinance, this letter represents the north-south lot dimension.

[Added by Ordinance 6535, enacted August 17, 1987]

**NATURAL AREAS.** Includes land and water that has substantially retained its natural character and which is an important habitat for plant, animal or marine life. Such areas are not necessarily completely natural or undisturbed, but can be significant for the study of natural, historical, scientific, or paleontological features or for the appreciation of natural features.

**NONCOMMERCIAL TELECOMMUNICATION FACILITY.** A telecommunication facility that is operated solely for a nonbusiness purpose.

[Added by Ordinance 97-1, enacted January 6, 1997]

**NONCONFORMING SIGN.** Any sign that does not conform to the requirements of the sign act.

[Added by Ordinance 97-13, enacted May 5, 1997]

**NONCONFORMING STRUCTURE OR USE.** A lawfully existing structure or use or one which has received final approval from the City at the time of passage of Chapters 10 to 14, or any time thereafter upon amendment of these Chapters, which does not conform to the setback, coverage, height, use, or other similar requirements of the zone in which it is located.

**NONPRECISION INSTRUMENT RUNWAY.** See **RUNWAY.**

**NORTHERN LOT LINE.** A lot line or lines less than 45 degrees southeast or southwest of a line drawn east-west and intersecting the northernmost point of lot. If no such line exists, the line nearest to 45 degrees shall be used. If the north side of a lot adjoins an unbuildable area (e.g. streets, alleys, canals, parking lots or common areas), the northern lot line shall be at the northerly edge of the unbuildable area. The pole of flag lots is excepted (see diagram in Exhibit O).

[Added by Ordinance 6535, enacted August 17, 1987]

**NORTH SOUTH LOT DIMENSION.** The average distance between lines from the corners of the northern lot line south to a line drawn due east-west and intersecting the southernmost point of the lot (see diagram in Exhibit O).

[Added by Ordinance 6536, enacted August 17, 1987]

**NEGOTIATE.** Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.

**NURSERY.** A facility used to operate programs suitable for the education and training of children prior to enrollment within a kindergarten facility as defined under ORS 336.092.

**OFF PREMISES ADVERTISING SIGN.** Any off premises sign, including without limitation a billboard or general outdoor advertising device, that advertises or directs attention to a business, profession, commodity, entertainment, service or activity conducted, sold or offered elsewhere than on the same lot or within the same building upon which the sign is located.

[Added by Ordinance 97-13, enacted May 5, 1997]

**OPACITY.** The quality of a body that makes it impervious to rays of light and therefore not able to be seen through.

**OPEN SPACE.** Land that would, if preserved or landscaped and continued in its present use:

- (1) Conserve and enhance natural or scenic resources;
- (2) Protect air, streams, or water supply;
- (3) Promote conservation of soils, wetlands, or shorelines;
- (4) Conserve landscaped areas that reduce air pollution and enhance the value to abutting or neighboring property;
- (5) Enhance the value to the public of surrounding properties, parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;
- (6) Promote orderly urban development.

**O.A.R.** Oregon Administrative Rules

**O.R.S.** Oregon Revised Statutes.

**OWNER.** A person who alone, jointly or severally with others or in a representative capacity (including without limitation, an authorized agent, executor or trustee) has legal and equitable title to any property in questions.

[Added by Ordinance 97-13, enacted May 5, 1997]

**OWNERSHIP OR OWNER.** The legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as his interest in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for the purposes of the consent petition.

**P.** As used in the mathematical formulas contained in this Ordinance, this letter represents the solar slope.

[Added by Ordinance 6535, enacted August 17, 1987]

**PARAPET.** That part of any wall entirely above the roof line.

[Added by Ordinance 96-19, enacted July 1, 1996]

[Amended by Ordinance 00-09, enacted May 1, 2000]

**PARCEL.** A unit of land that is created by a partitioning of land.

**PARK.** An area with open space, which may or may not have facilities for recreation and which is landscaped or may have natural vegetation. The size and location of parks is discussed in the Parks, Recreation and Open Space Master Plan, a component of the Comprehensive Plan.

[Amended by Ordinance 00-09, enacted May 1, 2000]

**PARKING SPACE, STANDARD.** A parking space not less than 9 feet in width and 19 feet in length, as measured at right angles to the opposite dimensions, striped by a four inch-wide painted line. All standard parking spaces, except those located on-street, shall have clear and unencumbered access available, i.e.-not in tandem with other vehicles.

[Amended by Ordinance 00-09, enacted May 1, 2000]

**PARKING SPACE, SMALL VEHICLE.** A parking space shall not be less than 8.5 feet in width and 14.5 feet in length, as measured at right angles to the opposite dimensions, striped on all three sides by a four inch painted line except on those sides abutting and adjacent to walls or curbs. Each space shall have a sign stating "Small Vehicle Only". Said sign shall be prominently displayed with or immediately adjacent to each space and be composed of letters not less than four inches in height. All small vehicle parking spaces, except those located on-street, shall have clear and unencumbered access available, i.e.-not in tandem with other vehicles.

[Amended by Ordinance 00-09, enacted May 1, 2000]

**PARTITION LAND.** To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include any adjustment of a property line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by Chapters 10 to 14. "Partition land" does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.  
[Amended by Ordinance 95-9, enacted September 5, 1995]

**PARTY.** The applicant, or any person who appears orally or in writing at a public hearing conducted pursuant to the provisions of this ordinance and had the right to be notified under the procedures of Chapters 10 to 14.

**PASSIVE RESTORATION.** See **RESTORE.**

**PENNANT.** Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.  
[Added by Ordinance 97-13, enacted May 5, 1997]

**PERSON.** A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government or similar entities, or any group or combination acting as a unit, or the successors or assigns of any of the aforesaid. Person shall also include the authorized agent of the aforesaid.

**PLANNING COMMISSION.** See **COMMISSION.**

**PLANNING DIRECTOR.** See **DIRECTOR.**

**PLANNED UNIT DEVELOPMENT.** A land area designed to include various types of land uses, such as single family residential, professional and administrative offices, commercial centers, industrial parks, any public or quasi public use or combination of uses. A planned unit development may include a "planned unit" and "property owners association" and "common property" which are defined as follows:

- (1) **Planned Unit.** A land area which has both individual building sites and open space, known as common property, such as a park, and is designed and organized to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property.
- (2) **Property Owners Association.** An incorporated, nonprofit corporation,

unincorporated association or similar group organized such that each lot owner in a planned unit or other described land area is automatically subject to a charge for the expenses for the organization's activities, such as maintaining a common property.

- (3) **Common Property.** A parcel of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the land development.

**PLAT.** The final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

**POLITICAL SIGN.** Any noncommercial sign concerning candidates for public office or ballot issues in a primary, general or municipal election.

[Added by Ordinance 97-13, enacted May 5, 1997]

**PORTABLE SIGN.** Any sign not permanently attached to the ground or other permanent structure or sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T frames; menu sandwich board signs; balloons used as signs; and umbrellas used for advertising.

[Added by Ordinance 97-13, enacted May 5, 1997]

**PRECISION INSTRUMENT RUNWAY.** See **RUNWAY.**

**PREFABRICATED STRUCTURE.** See **MODULAR HOME.**

[Amended by Ordinance 93-20, enacted November 15, 1993]

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

**PRINCIPAL BUILDING.** The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principle buildings; but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

[Added by Ordinance 97-13, enacted May 5, 1997]

**PRINCIPAL USE.** A use permitted in a zone as an outright use and expected to be the predominant use in that zone.

**PROJECTING SIGN.** Any sign affixed to a building or wall in such a manner that its leading

edge extends more than nine (9) inches beyond the surface of such building or wall.  
[Added by Ordinance 97-13, enacted May 5, 1997]

**PROPERTY LINE ADJUSTMENT.** A division line between units of land which are in separate ownership.

[Added by Ordinance 95-9, enacted September 5, 1995]

**PROPERTY LINE.** A line created by a subdivision or for purposes of Chapter 12, a line created by a partition, that is fixed in place, between two separate units of land.

(1) **Lot Line, Front.** In the case of an interior lot, the lot line separating the lot from the street other than an alley and in the case of a corner or through lot, a line separating the lot from the street on which the development or contemplated development will face.

(2) **Lot Line, Rear.** A lot line which is opposite and most distant from the front lot line and in the case of an irregular, triangular or other shaped lot, a line ten feet in length within the lot parallel to and at the maximum distance from the front lot line.

(3) **Lot Line, Side.** Any lot line not a front or rear lot line.

[Added by Ordinance 95-9, enacted September 5, 1995]

**PROPERTY OWNER'S ASSOCIATION.** See **PLANNED UNIT DEVELOPMENT.**

**PUBLIC FACILITIES.** Projects, activities and facilities deemed to be necessary for the maintenance of the public health, safety and welfare, plus such other public purposes consistent with Comprehensive Plan policies, including nonpublic activities permitted by government agencies. Such public facilities shall include any activity undertaken or structure held, used or controlled for public or quasi public purposes including, but not limited to, churches, fraternal organizations or clubs, hospitals, schools, nursing homes, federal, state, county or municipal offices or facilities, recreation facilities and public utilities. Such determination shall be made without reference to the ownership of the structure or the realty upon which it is situated. Public facilities do not include telecommunication facilities.

[Amended by Ordinance 97-1, enacted January 6, 1997]

**PUBLIC WORKS DIRECTOR.** The Public Works Director of the City of Klamath Falls, Oregon.

**READILY VISIBLE.** An object that stands out as a prominent feature of the landscape when viewed with the naked eye.

[Added by Ordinance 97-1, enacted January 6, 1997]

**REAL ESTATE SIGN.** Any sign indicating the availability for sale, rent or lease of the specific

lot, building or portion of a building upon which the sign is displayed.  
[Added by Ordinance 97-13, enacted May 5, 1997]

**REAR YARD.** See **YARD.**

**RECREATION.** Any experience voluntarily engaged in largely during leisure (discretionary time) from which the individual derives satisfaction.

- (1) **Low Intensity Recreation.** Does not require developed facilities and can be accommodated without change to the area or resource, e.g., boating, hunting, hiking, wildlife photography and beach and shoreline activities can be low intensity recreation.
- (2) **High Intensity Recreation.** Uses specially built facilities or occurs in such density or form that it requires or results in a modification of the area or resource. Campgrounds, golf courses, public beaches and marinas are examples of high intensity recreation.

**RECREATIONAL VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
  - (2) 400 square feet or less when measured at the largest horizontal projection;
  - (3) Designed to be self-propelled or permanently towable by a light duty truck; and
  - (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use and is equipped with plumbing, sink or toilet.
- [Added by Ordinance 00-09, enacted May 1, 2000]

**RECREATIONAL VEHICLE PARK.** Any place where four or more recreational vehicle spaces are located within 200 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

**RESIDENTIAL.** Of or relating to a place where people dwell.

**RESIDENTIAL FACILITY.** A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential facility.

**RESIDENTIAL HOME.** A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential home.

**RESIDENTIAL SIGN.** Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located if offering such service at such location conforms with all requirements of the Community Development Ordinance.

[Added by Ordinance 97-13, enacted May 5, 1997]

**RESTORE.** Revitalizing, returning or replacing original attributes and amenities, such as natural biological productivity and aesthetic and cultural resources, which have been diminished or lost by past alterations, activities or catastrophic events.

- (1) **Active Restoration.** Involves the use of specific positive remedial actions, such as removing fills, installing water treatment facilities, or rebuilding deteriorated urban waterfront areas.
- (2) **Passive Restoration.** Is the use of natural processes, sequences and timing or which occurs after the removal or reduction of adverse stresses without other specific positive remedial action.

**REVERSED CORNER LOT.** See **LOT.**

**RETAIL COMMERCIAL.** Any commercial enterprise of, relating to, or engaged in the sale of commodities or goods in small quantities directly to the ultimate consumer.

[Amended by Ordinance 6413, enacted January 3, 1983]

**RF/EMR.** Radio frequency radiation/electromagnetic radiation.

[Added by Ordinance 97-1, enacted January 6, 1997]

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

**ROADWAY.** The portion of a street right of way developed for vehicular traffic.

**ROOF SIGN.** Any sign erected or constructed that extends vertically above the highest portion of the roof.

[Added by Ordinance 97-13, enacted May 5, 1997]

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

- (1) **Runway 14.** A Nonprecision Instrument Runway located at the Klamath Falls Airport/Kingsley Field, aligned in a southeast direction and designated as a primary runway.

- (2) **Runway 7-25.** A Visual Utility Runway located at the Klamath Falls Airport/Kingsley Field, aligned in an east-west direction and designated as a crosswind runway.
- (3) **Runway 32.** A Precision Instrument Runway located at the Klamath Falls Airport/Kingsley Field, aligned in a northwest direction and designated as a primary runway.
- (4) **Utility Runway.** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
- (5) **Visual Runway.** A runway intended solely for the operation of aircraft using visual approach procedure with no straight in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service's approved military airport layout plan or by any planning document submitted to the FAA by competent authority.
- (6) **Precision Instrument Runway.** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). Also, a runway for which a precision approach system is planned and is so indicated on an FAA or military services approved airport layout plan or other airport planning document.
- (7) **Nonprecision Instrument Runway.** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance. Also, a runway for which a non-precision approach is planned and is so indicated on an FAA approved airport layout plan, military services approved military airport layout plan, any other FAA planning document or any other military services military airport planning document.

**RURAL LAND.** Those lands which are outside the Urban Growth Boundary and are:

- (1) non-urban agricultural, forest, or open space lands; or
- (2) other lands suitable for sparse settlement, small farms or acreage homesites with no or few public services and which are not suitable, necessary or intended for urban use.

**SALE OR SELL.** Every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

**SATELLITE DISH.** Any device incorporating a reflective surface that is solid, open mesh or bar configured that is shallow dish, cone, horn or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are

commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.  
[Added by Ordinance 97-1, enacted January 6, 1997]

**SATELLITE EARTH STATION.** A telecommunication facility consisting of more than a single satellite dish smaller than ten feet (10') in diameter that transmits to and/or receives signals from an orbiting satellite.

[Added by Ordinance 97-1, enacted January 6, 1997]

**SCREENING.** A fence, plantings, or similar structure arranged in such a way as to obstruct vision.

**SECONDARY.** A use which is supplementary or subordinate to an allowed principal use in that it functions to furnish direct aid or support to the use.

[Amended by Ordinance 6413, enacted January 3, 1983]

**SETBACK.** The distance from the property line to the nearest part of the applicable building, structure or sign measured perpendicularly to the property line.

[Added by Ordinance 97-13, enacted May 5, 1997]

**SHADE.** A shadow, except a shadow caused by a narrow object, including but not limited to such narrow objects as a utility pole, antenna, wire or flagpole.

[Added by Ordinance 6535, enacted August 17, 1987]

**SHADOW PATTERN.** A graphic representation of the area which would be shaded at noon on December 21st by a structure or vegetation.

[Added by Ordinance 6536, enacted August 17, 1987]

**SIDE YARD.** See **YARD.**

**SIDEWALK.** A pedestrian walkway.

**SIGN.** Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of or identify the purposes of a person or entity or to communicate information of any kind to the public.

[Amended by Ordinance 97-13, enacted May 5, 1997]

**SIGN STRUCTURE.** Any supports, uprights, braces or framework of a sign.

[Added by Ordinance 97-13, enacted May 5, 1997]

**SIGNIFICANT HABITAT AREAS.** A land area where sustaining the natural resource characteristics is important or essential to the production and maintenance of aquatic life or wildlife populations.

**SINGLE FAMILY DWELLING.** See **DWELLING.**

**SOLAR ACCESS PERMIT.** A document that describes the maximum permitted height of nonexempt vegetation on properties to which the permit applies to protect solar access on the property of the permit application, to the extent authorized by the City. A Solar Access Permit shall include, but is not limited to, the legal description of the properties benefited and restricted by the permit and copy of the sunchart, solar access permit height limitations and information listed in Sections 14.892 (1) and (4) through (10).

[Added by Ordinance 6536, enacted August 17, 1987]

**SOLAR ENERGY SYSTEM.** A device or combination of devices or elements that rely on direct sunlight as an energy source, including but not limited to a substance or device that collects sunlight for the following uses: heating or cooling of a structure or building; heating or pumping of water; or generating electricity. A solar energy system may be used for purposes in addition to collecting solar energy including but not limited to serving as a structural member or part of a roof or a building or structure and serving as a window or wall. Under this definition a south wall can be a solar energy system as well as solar equipment such as water heaters or hot water collectors.

[Added by Ordinance 6536, enacted August 17, 1987]

**SOLAR ENVELOPE.** The height limit that applies to a lot subject to Section 14.884 (3) or 14.886 (4). The envelope is a series of contour lines that begin at the southern building line or northern lot line or the bottom edge of a solar energy system for which a solar access permit is requested, are parallel to the southern building line or northern lot line or bottom edge of a solar energy system and rise at an angle of 24 degrees to the south, in a minimum of five foot vertical increments (see diagram in Exhibit O).

[Added by Ordinance 6535, enacted August 17, 1987]

**SOLAR FACTOR.** A number that represents the potential solar access of a lot based on a lot's north-south lot dimension and solar slope as represented by the following formula:

$$N \times 2.22 \times (.45 + P)$$

where N = north-south lot dimension  
P = solar slope

[Added by Ordinance 6535, enacted August 17, 1987]

**SOLAR HEATING HOURS.** The hours and dates during which solar access is protected under a solar access permit, not to exceed those hours and dates when the sun is lower than 24 degrees altitude or greater than 55 degrees east or west of true south.

[Added by Ordinance 6535, enacted August 17, 1987]

**SOLAR SETBACK.** A line parallel to an adjoining northern lot line which is the minimum distance that the highest shade producing point of a structure shall be set back from said northern lot line. The setback shall be calculated using the same solar slope and measured along the same lines to measure the north-south lot dimension.

[Added by Ordinance 6535, enacted August 17, 1987]

**SOLAR SLOPE.** The average of ground slope lines from the corners of the property's northern lot line south to a property line. The slope of a single line is determined by dividing the vertical distance between the two end points by the horizontal distance between the same two points. North facing slopes will have a negative (-) value. South facing slopes will have a positive (+) value (see diagram in Exhibit O).

[Added by Ordinance 6535, enacted August 17, 1987]

**SOUTHERN BUILDING LINE.** A line establishing the southernmost location for a structure on a lot, determined by applicable minimum setback requirements on undeveloped lots or, where developed by the southern elevation of an existing structure.

[Added by Ordinance 6535, enacted August 17, 1987]

**SPECIAL DISTRICT.** Any unit of local government, other than a city or county, authorized and regulated by statute and includes, but is not limited to: water control districts, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

**STANCHION.** Stanchion means A vertical pole, post or support.

[Added by Ordinance 96-19, enacted July 1, 1996]

**START OF CONSTRUCTION.** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement 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 columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundation of the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**SQUARE FEET.** Square feet of floor area primary to the functioning of the particular use of property and excluding: stairwells, elevator shafts, hallways, ornamental balconies, space occupied by heating, air conditioning and other utility equipment and space devoted to off street parking or loading.

**STREET.** A strip of land or way subject to vehicular traffic (including pedestrian traffic) that provides direct or indirect access to property, including but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails or other thoroughfares.

[Amended by Ordinance 97-13, enacted May 5, 1997]



- (1) **Alley.** A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.
- (2) **Arterial.** A street of considerable continuity which is primarily a traffic artery for intercommunication among large areas.
- (3) **Bikeway.** A right of way for bicycle and pedestrian traffic.
- (4) **Collector.** A street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas and used to some extent for through traffic and to some extent for access to abutting properties.
- (5) **Cul de sac (dead end street).** A short street having one end open to traffic and being terminated by a vehicle turnaround.
- (6) **Half Street.** A portion of the width of a street, usually along the edge of a land development, where the remaining portion of the street could be provided in another land development.
- (7) **Local Street.** A street intended primarily for access to abutting properties.
- (8) **Marginal Access Street.** A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
- (9) **Stubbed Street.** A street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future land developments or adjacent lands.

**STREET FRONTAGE.** The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

[Added by Ordinance 97-13, enacted May 5, 1997]

**STREETSCAPE.** A streetscape refers to the planned development of pedestrian amenities such as street lights, planters, drinking fountains, sidewalks, etc.

[Added by Ordinance 96-19, enacted July 1, 1996]

**STRUCTURE.** Anything constructed, installed or portable which requires a location on or within land. Structure does not include sidewalks, underground utilities, franchised utilities within rights of way, parking areas, areas of ingress and egress to parking or vegetation.

[Amended by Ordinance 96-19, enacted July 1, 1996]



**STRUCTURAL ALTERATION.** Any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams or girders or any structural change in the roof.

**STUBBED STREET.** See **STREET.**

**SUBDIVIDED LAND.** To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

**SUBDIVISION.** Either an act of subdividing land or an area or a tract of land subdivided as defined in Chapters 10 to 14.

**SUBMERSED LANDS.** See **WETLANDS.**

**SUNCHART.** A photograph or photographs, taken in accordance with guidelines issued by the Planning Department, which plot the position of the sun during solar heating hours. The sunchart shall contain at a minimum the southern skyline as seen through a grid which plots solar altitude for a 42 degree northern latitude in 10 degree increments and solar azimuth measured from true south in 15 degree increments. If the solar energy system is less than 20 feet wide, a minimum of one sunchart shall be taken from the center of the bottom edge of the system. If the solar energy system is wider than 20 feet, a minimum of two suncharts shall be taken, one from each end of the bottom edge of the system.

[Added by Ordinance 6535, enacted August 17, 1987]

**SUSPENDED PARTICULATE MATTER.** Solid or liquid particles of soot, dust, aerosols, fumes or the like ranging from 0.1 to 100 microns in size.

**SUSPENDED SIGN.** A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

[Added by Ordinance 97-13, enacted May 5, 1997]

**TELECOMMUNICATION FACILITY.** A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns and other types of equipment for the transmission or receipt of such signals; telecommunication towers or similar structures supporting said equipment; equipment buildings; parking areas; and other accessory development. It does not include minor antennas meeting the requirements of Sections 14.780 through 14.784.

[Added by Ordinance 97-1, enacted January 6, 1997]

**TELECOMMUNICATIONS TOWER.** A mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support antennas. A ground or building mounted mast less than ten feet (10') tall and six inches (6") in diameter supporting a

single antenna shall not be considered a telecommunications tower.

[Added by Ordinance 97-1, enacted January 6, 1997]

**TEMPORARY SIGN.** Any sign that is used only temporarily and is not permanently mounted.

[Added by Ordinance 97-13, enacted May 5, 1997]

**TENTATIVE PLANS.** The preliminary proposal for a subdivision which includes the information specified in Chapter 11.

**THROUGH LOT.** See **LOT**.

**TOPOGRAPHIC.** Topographic means the exact physical feature of a place or region on a map.

[Added by Ordinance 96-19, enacted July 1, 1996]

**TRAILER.** A vehicle or structure equipped with wheels for highway use that is intended for human occupancy, which is not being used for residential purposes and is being used for vacation and recreational purposes.

**TRANSITIONAL ZONE.** See **APPROACH ZONE**.

**TRANSOM WINDOWS.** Small windows above the display windows that functioned as early energy savers, they allow daylight to enter deep into the interior space.

[Added by Ordinance 96-19, enacted July 1, 1996]

**TRANSPORTATION SYSTEM PLAN (TSP).** The Klamath Falls Urban Area Transportation System Plan, a 20-year plan for transportation improvements jointly adopted by the City of Klamath Falls, Klamath County, and the Oregon Department of Transportation. The TSP is an element of the Comprehensive Plan

[Added by Ordinance 00-09, enacted May 1, 2000]

**TREE.** Any woody plant that has at least one trunk whose diameter four feet above the ground, is two inches or greater.

**TRUE NORTH.** Direction measured 19 degrees west of magnetic north (Magnetic North - 19 degrees = True North).

[Added by Ordinance 6535, enacted August 17, 1987]

**TRUE SOUTH.** Direction measured 19 degrees east of magnetic south (Magnetic South + 19 degrees = True South).

[Added by Ordinance 6535, enacted August 17, 1987]

**URBAN LAND.** Those lands which normally have an incorporated city. Such areas may include lands adjacent to and outside the incorporated city which:

- (1) have concentrations of persons who generally reside and work in the area; and
- (2) have supporting public facilities and services.

**URBANIZED LAND.** Land within the Urban Growth Boundary which is identified and:

- (1) determined to be necessary and suitable for future urban land;
- (2) can be served by public facilities; and
- (3) is needed for the expansion of an urban land area.

**USE.** The purpose for which land or a structure is designed, arranged or intended or for which it is occupied or maintained.

**USC&GS.** United States Coast and Geodetic Survey.

**UTILITY RUNWAY.** See **RUNWAY.**

**VARIANCE.** A deviation from the requirements of this ordinance which may be granted according to the provisions of Sections 11.200 to 11.210 or Sections 11.250 to 11.275

**VEHICLE SIGN.** Any sign mounted, painted or affixed to the roof or other surface of a vehicle. [Added by Ordinance 97-13, enacted May 5, 1997]

**VISION CLEARANCE.** A triangular area at the street corner of the corner lot or the alley street intersection of a lot, the space being defined by a line across the corner, the ends of which are on the street line or alley lines and equal and specified distance from the corner and containing no planting, walls, structures or temporary or permanent obstruction from two and one half feet in height above the curb level to ten feet above the curb level. The vision clearance dimension specified in Chapters 10 to 14 is the distance from the corner of the lot establishing the location of the diagonal line across the corner.

**VISUAL RUNWAY.** See **RUNWAY.**

**WALL SIGN.** Any sign attached parallel to, but mounted within nine (9) inches of a wall, painted surface of or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building and which displays only one sign surface. [Added by Ordinance 97-13, enacted May 5, 1997]

**WATERCOURSE.** A natural or man made channel through which water flows.

**WETLAND.** Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support, a

prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

**WILDLIFE.** Game fish as defined in ORS 496.009, wild birds, reptiles and wild animals.

**WINDOW SIGN.** Any sign, pictures, symbols or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

[Added by Ordinance 97-13, enacted May 5, 1997]

**YARD.** An open area on a lot which is unobstructed from the ground upward except as otherwise provided in Chapters 10 to 14.

- (1) **Front Yard.** An open area extending between side lot lines and measured horizontally at right angles from the front lot line to the nearest point of the structure's foundation wall.
- (2) **Rear Yard.** An open area extending between side lot lines and measured horizontally at right angles from the rear lot line to the nearest point of the structure's foundation wall.
- (3) **Side Yard.** An open area between the structure and the side lot line measured horizontally and at right angles from the side lot line to the nearest point of the structure's foundation wall.

**10.015 Severability.** All provisions of Chapters 10 to 14 are severable. It being the intent of the City Council to enact these chapters notwithstanding any parts declared invalid or unconstitutional, if any section, subsection, paragraph, clause, sentence, phrase or word of said Chapters be declared unreasonable or inapplicable by such a court of competent jurisdiction to a particular premise or to a particular use at any particular location, such declaration of judgement shall not affect or invalidate any such section, subsection, paragraph, clause, sentence phrase or word as to any other premise or use. The inclusion within these Chapters of any provision later judged unconstitutional or otherwise invalid is wholly unintentional, it being the intent of the Council to draft and adopt Chapters 10 to 14 in a manner consistent with all substantive and procedural legal requirements.

**10.020 Terminology, Construction and Interpretation.** Words used in the singular include the plural and words used in the plural include the singular; the word "shall" is mandatory and the word "may" is permissive, the masculine includes the feminine and the neuter; words used in the present tense include the future and the future tense includes the present. The provisions of Chapters 10 to 14 shall be construed to affect the purposes set forth in Section 10.000. The provisions are declared to be the minimum requirements necessary to fulfill such objectives. Where conditions imposed are less restrictive than comparative conditions imposed by any other provisions of Chapters 10 to 14, by provisions of any other local ordinance, by resolution, regulation or provision of state or federal statute or administrative regulation, then the more restrictive shall govern and where conditions herein imposed are more restrictive than comparative

conditions imposed by other aforementioned ordinances, regulations, statutes or resolutions, then those imposed herein shall govern. Whenever a defined use qualifies as both a principal and conditional use in the same zone, it shall be deemed a principal use. Subject to an appeal to the Planning Commission, the Director is authorized to interpret the provisions of Chapters 10 to 14 in those instances where such provisions are reasonably subject to conflicting interpretations. [Amended by Ordinance 97-13, enacted May 5, 1997]

**10.025 Repealer.** The following ordinances and all amendments thereto are hereby repealed:

- (1) Klamath Falls Zoning Ordinance No. 5095, as amended except Campus Planned Unit Development Amendment No. 6158, as amended; Basin View Planned Unit Development Amendment No. 6240, as amended; Geary Brothers Southview Planned Unit Development Amendment No. 6264; Jeld Wen Planned Unit Development No. 6076. In addition, the conditions of Zone Change Ordinances No. 6215, No. 6216, and No. 6222 shall continue to apply under the new zone designation.
- (2) Klamath Falls Land Development Ordinance No. 6105, as amended.
- (3) Notwithstanding the provisions of parts 1 and 2 hereof, any approvals or permits, excepting zone designations and boundaries, granted pursuant to authority given by ordinance enacted prior to the effective date of Chapters 10 to 14 shall remain in full force and effect unless otherwise voided pursuant to the provisions of Chapters 10 to 14.

## **TEXT AMENDMENT PROCEDURES**

**10.105 Initiation.** Any amendment of Chapters 10 to 14 may be initiated by the Council or Commission by motion. Whenever an amendment is initiated by the Council, the motion shall be referred to the Commission for its recommendation.

**10.110 Hearing Date.** In every case of a proposed text amendment, the Director shall fix a date for public hearing before the Commission.

**10.115 Hearing - Notice Procedures.** Notice of time and place of the public hearing before the Commission and the purpose of the proposed amendment shall be given by the Director in the form of one publication in a newspaper of general circulation in the city and notice to all local electronic media. Such notice shall be given not less than twenty (20) days prior to the evidentiary hearing, or ten (10) days if two or more evidentiary hearings are allowed.

**10.120 Hearing - Commission.** The Commission shall recommend approval, disapproval, or modification of the proposed amendment. A written report of findings and recommendations shall then be forwarded to the Council by the Director.

**10.125 Hearing - Council.** Upon receipt of the Commission recommendation, the Council shall hold a public hearing at a time designated by the Council and shall act to approve, reverse, modify or remand the matter back to the Commission for further consideration and a recommendation. Notice of such hearing shall be given pursuant to the provisions of Section 10.115. Upon receipt of a second recommendation from the Commission, the Council shall hold another hearing pursuant to the requirements of this section.

## COMPLIANCE AND ENFORCEMENT PROCEDURES

**10.205 Compliance.** No person shall erect, construct, reconstruct, alter, maintain or use any structure, or shall use or transfer any land in violation of Chapters 10 to 14 or any amendment thereto or in violation of any statement, plans, or maps submitted and approved under the provisions of Chapters 10 to 14.

### **10.207 Enforcement Fees.**

- (1) In order to defray the costs of enforcement of Chapters 10 to 14, the Community Development Director or his/her designee (the Director), shall impose fees on those properties and owners of those properties which are found to be in violation of any provision of Chapter 10 to 14 of any permit or other approval issued pursuant to said chapters.
- (2) The City shall charge a monthly enforcement fee for each property that meets the following conditions:
  - a. The property is subject to a written notice of violation, as described in Section 10.208;
  - b. A response period of thirty (30) days has passed since the effective date of the initial notice of violation; and
  - c. The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
- (3) The amount of the enforcement fee shall be One Hundred Dollars (\$100.00) per month.
- (4) Whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall so notify the Director. Upon receipt of such notice, the Director shall promptly schedule an inspection of the property and shall notify the owner if any violations remain uncorrected.
- (5) Once monthly enforcement fees begin, they shall continue until all violations listed in the first or any subsequent notice of violation have been corrected.
- (6) When a property meets the conditions for charging an enforcement fee as described in (2) above, the Director shall file a statement with the City Finance Director that identifies the property, the amount of the monthly fee

and the date on which the charges shall begin. The Finance Director shall then:

- a. Notify the occupant(s) and the property owner(s) of the assessment of enforcement fees;
- b. Record a property lien in the City Lien Docket and record a Notice of Pending Lien with Klamath County;
- c. Bill the property owner(s) monthly for the full amount of enforcement fees owing, plus an additional ten percent (10%) to cover administrative costs of the City Finance Department and interest at 12% per annum; and
- d. Maintain lien records until
  - i. The lien and all associated interest, penalties and costs are paid in full; and
  - ii. The Director certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

- (7) Each person who has a legal or equitable interest in the property on or after the effective date of a notice of violation shall be personally liable for fees imposed pursuant to this section, including all interest, civil penalties and other charges.

[Added by Ordinance 96-35, enacted December 2, 1996]

**10.208 Notice of Violation.** If the Director finds one or more violations of the provisions of Chapters 10 to 14 of any permit or other approval issued pursuant to these chapters, the Director shall in writing notify the owner(s) or the owners' local agent and the occupant(s) or the owners' local agent and the occupant(s) of the existence of the violations. The method of serving the notice to the owner shall be one or more of those described in (3) below.

- (1) The notice of violation shall:
  - a. Give the street address and a legal description sufficient for identification of the property;
  - b. Describe the violation at the property;
  - c. Disclosure that fees, charges and liens as described in Section 10.207 may result from a failure to remedy the violations;

- d. Disclosure that water service may be discontinued as described in Section 10.212;
  - e. Specify a response period during which the property may be brought into compliance with this Title before fees, charges or liens will be assessed;
  - f. Disclose the owner's right to appeal the findings of the notice of violation.
- (2) The effective date of a notice of violation shall be the date of service of the notice to the owner(s). The date of service shall be the day on which the notice is:
- a. Mailed first class to the property owner(s) at the address shown on the last available assessment roll in the office of the county assessor;
  - b. Mailed first class to any local agent for the property; or
  - c. Delivered personally to the property owner(s) or any local agent for the property.
- (3) The Director shall monitor compliance with the notice of violation through periodic tracking and inspection. Once a notice of violation has been sent, the owner shall be responsible for all enforcement fees associated with the property, as described in Section 10.207 until the violations are corrected.
- (4) The Director may set time limits in which the violations are to be corrected.

[Added by Ordinance 96-35, enacted December 2, 1996]

**10.209 Exceptions to Enforcement Fees**

- (1) When all outstanding violations on a property, except those requiring exterior work have been corrected, the Director may at the request of the owner, temporarily suspend enforcement fees due to inclement weather until the following May 1st. Suspension of fees shall not in any case extend more than one (1) year beyond the effective date of the initial notice of violation.
- (2) If the owner fails to correct violations within the stated period of suspension, the City shall immediately charge the full value of all

suspended fees.

[Added by Ordinance 96-35, enacted December 2, 1996]

**10.210** [Repealed by Ordinance 96-35, enacted December 2, 1996]

### **10.211 Hardships.**

- (1) When the literal application of the requirements of these chapters would cause undue hardship to the owner(s) or occupants of the affected property, an exception may be granted by the Planning Commission upon application. The application shall state the reasons for the requested exception and shall be in writing. This Section shall not be construed so as to evade the provisions of these chapters.
- (2) Any exception granted by the Planning Commission shall be in writing and shall state the reasons for granting that exception. A copy of the decision shall be kept in the files of the Community Development Department.

[Added by Ordinance 96-35, enacted December 2, 1996]

**10.212 Discontinuance of Water Service.** In addition to the enforcement fees imposed by 10.207, in the event compliance does not occur within ninety (90) days of the effective date of the notice, water service to the property in violation shall be discontinued. The Director shall forward a disconnect request to the City Utilities Department with a copy of such request mailed to the owner(s) and occupant(s) of the property. Service shall be terminated no sooner than seven (7) days after the date of the request is forwarded to the utilities department. Water service to existing tenants of a residential property shall not be discontinued under this provision.

[Added by Ordinance 96-35, enacted December 2, 1996]

**10.213 Appeals.** Whenever a responsible party has been given a notice pursuant to 10.208, the party may have the notice or order reviewed by the Planning Commission. If a review is sought, the party shall submit a written request to the Community Development Department within fifteen (15) days of the date of the order. Pending determination by the Planning Commission, the notice or order will be stayed. Following the review, the Director shall issue a written determination reflecting the Planning Commission's decision which decision shall be final.

[Added by Ordinance 96-35, enacted December 2, 1996]

**10.215 Equity.** In case any structure is, or is proposed to be, erected, constructed, reconstructed, altered, maintained or used, or any land is, or is proposed to be, used in violation of Chapters 10 to 14, the Council, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or seek a temporary restraining order or any other appropriate proceeding to prevent, temporarily or permanently enjoin, abate or remove the unlawful erection, construction, reconstruction, alteration, maintenance or use.

## ORDINANCE EXHIBITS

**10.305 Zoning Maps.** The location and boundaries of the zones enumerated in Chapter 12 are hereby established as shown on the maps entitled "Zoning Maps of the City of Klamath Falls", "Klamath Falls Municipal Airport Approach and Clear Zone Plan" and "Flood Hazard Boundary Maps", as furnished by the Federal Insurance Administration and signed by the Mayor and City Recorder. Such exhibits or maps shall hereinafter be referred to as the "Zoning Map", Airport Hazard Zone Map" and "Flood Hazard Boundary Map".

**10.310 Miscellaneous Exhibits.** The following Exhibits, including but not limited to maps, charts, illustrated design standards and plat certificates, are hereby incorporated into Chapters 10 to 14. These Exhibits, with the exception of A through L, are contained in Appendix I.

- A. Zoning Map #1
- B. Zoning Map #2
- C. Zoning Map #3
- D. Zoning Map #4
- E. Zoning Map #5
- F. Zoning Map #6
- G. Klamath Falls Municipal Airport Approach Clear Zone Plan
- H. Reserved: Hazard Area Overlay Zone Map  
[Amended by Ordinance 6413, enacted January 3, 1983]
- I. Reserved: Wildlife Overlay Zone Map
- J. Reserved: Historical Overlay Zone Map
- K. Downtown Parking District Map
- L. Certificates:
  - 1. Development Agreement
  - 2. Surveyor's Certificate
  - 3. Consent and Dedication Certificate (Husband and Wife)
  - 4. Consent and Dedication Certificate (Corporation)
  - 5. City Public Works Director Certificate
  - 6. Planning Director Certificate
  - 7. Board of County Commissioners Certificate
  - 8. County Assessor's Certificate
  - 9. County Treasurers Certificate
  - 10. County Clerk's Certificate
  - 11. Tracing Certificate
  - 12. Port Monumentation Affidavit
  - 13. Special Service District Certificate
  - 14. Water Supply Certificate
  - 15. Sewage Disposal System Certificate
- M. Illustrated Design Standards  
[Amended by Ordinance 00-09, enacted May 1, 2000]

## Drawing Number

100	Curb and Gutter - Type "A"
110	Straight Curb - Type "B"
120	Curb and Gutter - Type "C"
130	Curb End
140	Cross Gutter
150	Alley Intersection
160	PCC Sidewalk across Driveway
170	PCC Sidewalk
171	Concrete Joints
180	Public Sidewalk Curb Ramps- New Construction/Reconstruction- Type A & B Curb
181	Public Sidewalk Curb Ramps- New Construction/Reconstruction- Type C Curb
182	Public Sidewalk Curb Ramps- Tapered Curbs- Type A & B Curb
183	Sidewalk Wheelchair Ramp Public Sidewalk Curb Ramps- Parallel Ramps- Type A & B Curb
200	Minor Street Section (36' wide)
210	Collector Street Section (41' wide)
220	Cul-de-sac
230	Alley Section
300	Storm Water Catch Basin
310	Storm Water Ditch Inlet
400	Manhole Ring and Cover (10")
401	Manhole Ring and Cover (6")
410	Method for adjusting Manholes
420	Flat Top Manhole
430	Manhole
440	Drop Manhole
450	Manhole Riser
500	Trench Section
600	Fire Hydrant Assembly
610	Blow-off Assembly
620	Thrust Blocking
630	Combination Air/Vacuum Valve
700	Street Light Standard- Residential (Minor) Street
710	Street Light Standard- Collector Street
720	Street Light Standard- Arterial Street
730	Street Light Standard- Aluminum Tapered Elliptical Bracket
800	Bicycle Ramps, Driveways and Approaches
900	Building Height Calculation Ground Level Diagram – A

- 910 Building Height Calculation Ground Level Diagram - B
- 950 Angle Parking Standards- Site Plan
- 951 Angle Parking Standards- Dimensions
- 952 Minimum Standard Single-Disabled Person Parking Space
- 953 Minimum Standard Double-Disabled Person Parking Space
- 954 Disabled Person Parking Sign
- 955 Van-Accessible Parking Sign
- 956 Marked Disabled Aisle Crossing in Parking Areas
- 957 Perpendicular Disabled Curb Ramp Detail

[Added by Ordinance 00-09, enacted May 1, 2000]

**10.315 Exhibits Retention.** The exhibits or maps referred to in this section shall be maintained on file in the office of the Director and are hereby incorporated into Chapters 10 to 14 by this reference. Any revisions or replacements of said exhibits or maps, when duly entered, signed, and filed with the City Recorder, are a part of this Ordinance.

## **APPEALS**

### **10.405 Decisions Appealable.**

- (1) A decision by the Director shall be final unless the Director receives a notice of appeal to the Commission. Such notice must be received from a party to the decision within ten days of the date of mailing of the final decision by the Director.
- (2) A decision of the Commission shall be final unless the Director receives a notice of appeal to the Council. Such notice must be received from a party to the decision of the Commission within ten days of the date of mailing of the final decision by the Commission.
- (3) A decision of the Council shall be final unless an aggrieved party in a proceeding for a Zone Change or discretionary permit appeals the decision to the Land Use Board of Appeals (LUBA).
- (4) Any issue which is the basis for an appeal shall have been raised prior to the closing of the record, or following the final evidentiary hearing on the proposal before the City Council or Planning Commission hearing. Such issues shall have been raised with sufficient specificity as to afford the Council or Planning Commission and the parties an adequate opportunity to respond to each issue.

### **10.410 Notice of Appeal.** Every notice of appeal shall contain:

- (1) A reference to the application sought to be reviewed;
- (2) If not submitted by the applicant, a statement of the interest of the appellant to determine the appellant's status as a party; and
- (3) Proof of service of notice of appeal on other parties.

**10.415 Public Hearing Date.** Upon receipt of an appeal from a decision of the Director, the Director shall set a date for public hearing not less than 20 days from the receipt of appeal before the Commission. Upon receipt of an appeal from a decision of the Commission, the Director shall set a date for public hearing not less than 20 days from receipt of appeal before the Council.

**10.420 Notice of Hearing.** In the event of review by the Council or Commission as herein provided, notice of an appeal shall be mailed to all persons notified of the original application and to all parties before the original hearing body at least twenty (20) days prior to the scheduled hearing on the appeal. The notice shall include all information required of Section 10.610 (1) and ORS 197.763 (3).

**10.425 Written Appeal Statement(s).** The appellant of a Planning Commission decision shall submit a written statement as described in Section 10.410 and all evidence and documents in support of the appeal to the Planning Department and the Department must make it available to the public at least twenty (20) days before the hearing, as required by ORS 197.763 (4) (a). Any staff report used at the hearing shall be made available to the public at least seven (7) days prior to the hearing, as required by ORS 197.763 (4) (b).

Individuals wishing to appeal an Administrative decision shall submit a written statement as required in Section 10.405 (1). Within five days of receipt of the written statement, the Planning Department shall provide notice of the appeal to the applicant indicating the need to submit any additional evidence and documents in support of the subject land use request to the Planning Department and the Department must make it available to the public at least twenty (20) days prior to the first evidentiary hearing or ten (10) days if two or more evidentiary hearings are allowed. Notice of an appeal of an administrative decision shall be provided as required by Section 10.420, above. Staff report(s) used at the hearing shall be made available to the public at least seven (7) days prior to the hearing, as required by ORS 197.763 (4) (b).

**10.430 Public Hearing by Planning Commission/City Council.** The reviewing body shall conduct a public hearing on the appeal from the respective lower body at the time and place designated on the notice of review. At the commencement of the hearing, a statement shall be made by the chairperson as required by Section 10.710 (a-e). Such public hearings shall be conducted in accordance with the rules of procedure adopted by resolution by the respective body. The appellant shall appear at said hearing and offer justification of the appeal. If the appellant fails to do so, the appeal shall be denied. The Commission or Council at the conclusion of the public hearing, or within 35 days thereof, shall render a decision upon the appeal.

**10.435 De Novo Reviews.** The review of a decision of the Director or Commission shall be de novo (anew) and shall include:

- (1) All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the hearing body; and
- (2) All material submitted by the planning staff with respect to the application; and
- (3) The minutes of the hearing before the hearing body. A verbatim transcript shall be prepared upon written request and payment of cost thereof by any party; and
- (4) The findings and action of the hearing body and the notice of appeal.

[Amended by Ordinance 95-9, enacted September 5, 1995]

**10.440 Appealed Decision.** The Council or Commission may amend, rescind, or affirm the appealed decision.

[Amended by Ordinance 95-9, enacted September 5, 1995]



#### **10.445 Stay on Appeal.**

- (1) The filing of an appeal shall not stay the effectiveness of the decision, but the Manager may do so upon a showing of:
  - (a) Irreparable injury to the appellant; and
  - (b) A colorable claim of error in the decision.
- (2) When an appellant makes the showing required by subsection (1) of this subsection, the Manager shall grant the stay unless the Manager determines that substantial public harm will result if the decision is stayed. If the Manager denies the stay, the denial shall be in writing and shall specifically state the substantial public harm that would result from the granting of the stay.
- (3) When the Manager grants a stay, he or she may impose such reasonable conditions as the giving of a bond or other undertaking.

[Added by Ordinance 6413, enacted January 3, 1983]

**10.450 Effect of Judicial or Administrative Review.** Except as provided by law or by lawful order of a court or administrative tribunal having jurisdiction, a final decision by the Council shall remain valid and effective notwithstanding the initiation by any person of judicial or state administrative review of such decision; provided, however, that any building permit dependent upon such decision for its validity shall be issued only with the applicant's written acknowledgment, in a form approved by the City Attorney, that such review has been taken and may result in the reversal of the decision, in which event the permit will be revoked as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the provisions of Chapters 10 to 14 by appropriate means. No required permanent occupancy certificate shall be issued by the building official until such review has finally terminated in a decision making such occupancy in all respects lawful under Chapters 10 to 14.

[Added by Ordinance 6413, enacted January 3, 1983]

## APPLICATION PROCEDURES AND FEES

### 10.505 Application for Variance, Conditional Use, Zone Change, Design Review, Nonconforming Use Exception Flood Permit and Urban Growth Boundary Amendment.

- (1) Before submitting development plans for approval, an applicant proposing a variance, conditional use, zone change, design review, nonconforming use exception, flood permit and urban growth boundary amendment shall attend a pre-application conference to be scheduled with the Planning Department to obtain general information, guidelines, procedural requirements, advisory opinions and technical assistance for the project concept. The fee for this conference shall be ten percent (10%) of the application fee, this fee shall be credited toward the application fee.

[Added by Ordinance 96-19, enacted July 1, 1996]

- (2) **Initiation.** An application for variance, conditional use permit, change of zone, design review, nonconforming use exception, flood permit and urban growth boundary amendment may be initiated by the owner of the property involved or an authorized agent. An application for a change of zone may also be initiated by the Council or the Commission, in accordance with the provisions of subsection (3), below. Authorization to act as an agent shall be in writing and filed with the application. Such applications shall be filed on appropriate form provided by the Planning Department. when any such application requires the submission of a site plan, the site plan shall be submitted in a form as described within Section 12.810.

[Amended by Ordinance 96-19, enacted July 1, 1996]

- (3) **Initiation by Planning Commission/City Council.** The Commission and/or Council may initiate proceedings to rezone land by motion and conduct a public hearing in accordance with all applicable provisions of Chapter 10 to 14. Amendment of the Klamath Falls Urban Growth Boundary shall be initiated and processed in accordance with the current Klamath Falls Urban Growth Boundary Management Agreement. If the Council initiates such proceedings, the matter of the proposed change of zone shall first be referred to the Commission which shall then conduct proceedings as hereafter provided. If the Commission and/or Council initiate proceedings for a change of zone, they shall so advise the Director, who shall set a date for public hearing before the Commission.

[Amended by Ordinance 96-19, enacted July 1, 1996]

- (4) **Ownership list.** The applicant shall file with such applications a list of names, addresses, and tax lot numbers of all owners of property situated within the following radii, including public rights of way, of the external boundaries of the property affected by the application:



- a. Variances - 250 feet
- b. Conditional Use Permit - 250 feet
- c. Change of Zone - 500 feet
- d. Design Reviews - 100 feet
- e. Annexations - 100 feet
- f. Nonconforming Use Exception - 250 feet
- g. Land Partition – 250 feet
- h. Subdivision - 500 feet
- i. Flood Hazard Permit - 250 feet
- j. Urban Growth Boundary - 500 feet
- k. Vacation - Affected Area as defined in ORS 271.080 (2)

[Amended by Ordinance 95-3, enacted February 21, 1995]

[Amended by Ordinance 00-09, enacted May 1, 2000]

Such names, addresses and tax lot numbers shall be those listed on the last preceding tax role of the Assessor of Klamath County. The applicant shall also file with the application an affidavit attesting to the validity of said ownership.

[Amended by Ordinance 96-19, enacted July 1, 1996]

- (5) **Hearing Date.** Except for minor variances, minor zone boundary adjustments and those matters reviewed under Section 10.805, the Director shall, following the pre-application conference and upon receipt of a valid and complete application and fee, as required in Section 10.530, set a date for public hearing before the appropriate hearing body.

[Amended by Ordinance 96-19, enacted July 1, 1996]

### **10.510 Applications for Subdivisions or Partitions**

- (1) Before submitting development plans for approval, an applicant proposing a subdivision or partition shall attend a pre-application conference to be scheduled with the Planning Department to obtain general information, guidelines, procedural requirements, advisory opinions and technical assistance for the project concept. The fee for this conference shall be ten percent (10%) of the application fee, this fee shall be credited toward the application fee.

[Amended by Ordinance 96-19, enacted July 1, 1996]

- (2) Following the pre-application conference and upon receipt of a valid and complete application and fee, the Planning Department shall review the tentative subdivision or partition plan in accordance with the provisions of Section 10.805 and ORS 92.044. The Director shall set a date for the public hearing on tentative plans before the appropriate hearing body.

[Added by Ordinance 96-19, enacted July 1, 1996]

#### 10.515 Application for Vacation.

- (1) **Procedure.** Whenever any person desires to vacate all or part of any public square or other public place, plat, street or similar area, such person shall file an application for vacation with the Director on forms provided by the Planning Department. Such forms shall conform to the requirements of ORS 271.080 (1). Attached to such application shall be forms reflecting the consent of the owners of all abutting property and of not less than two thirds in area of the real property affected thereby as defined in ORS 271.080 (2). Such consent shall be in writing and duly acknowledged before an officer authorized to take acknowledgments of deeds. The director may require submission of a tentative plan or partition plan prior to acceptance of a vacation petition.
- (2) **Hearing Date.** Upon receipt of a valid and complete application and fee, the Director shall set a date for public hearing upon the application before the Commission.

#### 10.520 Application for Annexation.

- (1) **Procedure.** Whenever any person seeks to extend the boundaries of the City through annexation, such person shall file an application for annexation on forms provided by the Planning Department.
- (2) **Consent Petition.** If the applicant desires to negate the need for an election as provided in ORS 222.170 (1) said application shall contain the written consent to annex of more than half of the owners of land in the territory to be annexed, who also own more than half of the land in such territory and who own real property therein representing more than half of the assessed value of the real property in said territory.
- (3) **Initiation by Council.** A proposal to annex unincorporated territory surrounded by the City may be initiated by the Council. Such initiation shall be by resolution subject to referendum.
- (4) **Hearing Date.** Upon receipt of a valid and complete application and fee or resolution by the Council, the Director shall set a date for public hearing upon the application before the appropriate body.

**10.525 General Application Requirements.** If it is determined by the Director or his designated representative that any of the aforementioned applications do not provide the desired information nor have attached thereto other pertinent data requested, the application may not be accepted.

- a. **Submittal of Application.** All documents or evidence relied upon by the applicant shall be submitted to the Planning Department and be made available to the public at least twenty (20) days prior to the first evidentiary hearing or ten (10) days prior to the first hearing if two or more evidentiary hearings are allowed.
- b. **Improper Application.** If it is determined by the Director or his designated representative that an application does not provide the required information nor have attached thereto other pertinent data requested, the Planning Department shall notify the applicant of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purposes of ORS 227.178 (1) upon receipt by the Department of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete for the purposes of ORS 227.178 (1) on the 31st day after the Department first received the application.
- c. **Hearing Date.** Except for those applications subject to Administrative Review, the Director shall upon receipt of a valid and complete application and fee as required in Section 10.530, set a date for public hearing upon the application.

### 10.530 Application Fees

- (1) Fees as established by City Council resolution shall be required by the Director to defray costs incidental to the proceedings and such fees, except as provided in Subsection (2) below, shall be paid at the time of the filing of each application and shall not be refundable.

[Amended by Ordinance 00-09, enacted May 1, 2000]

- a. The above fee schedule does not include costs incurred by the City relating to the provision of legal notices, including but not limited to newspaper publication and mailed notices. Such costs shall be billed to the applicant and shall be paid within 30 days of billing. Failure to pay such billing shall render any action taken relative to said application null and void.
- b. If application is made after commencement of construction, the applicable fee shall be doubled. If there is no applicable fee, the applicant shall pay a \$50.00 application fee.

[Added by Ordinance 00-09, enacted May 1, 2000]

- c. Fees represent up to three (3) hours of staff time devoted to the processing of the application. In the event the complexity and size of the project

requires staff time in excess of three (3) hours, an additional charge shall be paid based on adopted hourly rates. Such fees shall be billed to the applicant and shall be paid within 30 days of billing.

[Amended by Ordinance 6620, enacted June 17, 1991]

[Amended by Ordinance 94-34, enacted November 7, 1994]

[Amended by Ordinance 00-09, enacted May 1, 2000]

- (2) The fees established herein shall not be required of governmental agencies or nonprofit organizations. For purposes of this section, nonprofit organizations shall be excluded from the definition of "business" as provided in Section 7.015(1). The above waivers shall not apply to costs established above.

[Amended by Ordinance 6413, enacted January 3, 1983]

- (3) The fees established herein may be amended by resolution of the City Council.

- (4) Land use requests requiring more than one application (e.g. zone change and variance) shall be charged only for the application with the highest assessed fee plus one half the fee of other applications, as indicated in (1) of this section. When required with conditional use permits, design reviews shall not be charged an additional fee. Minor variances with any other application shall not be charged an additional fee.

[Amended by Ordinance 95-9, enacted September 5, 1995]

- (5) A land development engineering fee, no part of which is refundable, shall be submitted to the Public Works Director in the amount of 4 percent (4%) of the estimated cost of anticipated improvements, with such estimate to be determined in accordance with Subsection 11.925 (2). The engineering fee shall be paid in full, prior to the commencement of any construction within tentative plans and final plans or maps.

[Amended by Ordinance 94-34, enacted November 7, 1994]

[Amended by Ordinance 00-09, enacted May 1, 2000]

**10.535 Concurrent Applications.** Development proposals and projects which require more than one land use request (e.g. variance and zone change) may be processed concurrently, at the request of the applicant and is subject to the 120 day time limit set out in ORS 227.178.

**10.540 Final Action.** Final action on permits, zone change applications or land use requests and amendments shall be subject to the requirements of ORS 227.178.

**10.545 Rehearing.** The Council, Commission or Director shall not consider any application involving a lot, parcel, or structure which has been the subject of the same application within twelve months following final action on such application, unless substantial new evidence is submitted which could not reasonably have been presented at the previous meeting.



## NOTIFICATION REQUIREMENTS

**10.605 Public Hearings.** Unless otherwise required by this Ordinance, any hearing before the Commission or Council required by any provision of Chapters 10 to 14 shall be a public hearing held in accordance with the notification and procedure requirements hereinafter provided.

### **10.610 Notice of Hearing.**

- (1) Upon fixing the time of public hearing before the City Council or Commission the Director shall cause notice of such hearing to be given by mail, posting, publication, or broadcast as required by the provisions of Sections 10.605 to 10.635. Said notice shall set forth the following:
  - a. location, date, time and place of the hearing;
  - b. summary of the nature and substance of the action to be considered at the hearing including the proposed use or uses which could be authorized;
  - c. applicable review criteria that apply to the land use request;
  - d. location of the subject property;
  - e. statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Planning Commission, Council or Land Use Board of Appeals (LUBA) based on that issue;
  - f. the name and phone number of a City representative to contact for further information;
  - g. indication that a staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost;
  - h. indication that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;
  - i. a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing; and
  - j. a brief description of the property involved.



- (2) Notice of any hearing shall be given not less than twenty (20) days prior to the evidentiary hearing, or ten (10) days if two or more evidentiary hearings are allowed as follows:
  - a. By publication once in a local newspaper of general circulation;
  - b. By providing notice to all local electronic media;
  - c. By first class mail to applicant and all property owners as shown on the ownership list filed with the application. However, failure to receive such notice shall not invalidate any of the proceedings involved if the City can demonstrate by affidavit that such notice was given, by mail.
  - d. Where applicable, by posting in accordance with Section 10.615.

**10.615 Posting Notices.** The Director may require that applicants post notices of public hearings to be held by the Council or Commission. By posting signs in a manner clearly visible on the subject property within 10 feet of whatever boundary line of such land, abuts each public road or street. If no public road abuts thereon, then such signs shall face in such a manner as may be most readily seen by the public. Such signs shall be provided to affected applicants by the Director.

**10.620 Notice of Administrative Action.** The Director may cause notice to be given to all property owners within 250 feet of the external boundaries of a proposed conditional use permit, tentative plan approval, variance, minor or major partition or lots or parcels affected by a temporary permit of pending administrative action on said application. Such notice shall include a summary of the nature and substance of the proposal, a brief description of the property involved and a solicitation of oral or written comments to be submitted within 5 calendar days of mailing of notice.

[Amended by Ordinance 6559, enacted October 17, 1988]

**10.625 Notice of Hearing on Vacation Petition.**

- (1) Upon receipt of a resolution from the Council or a petition to vacate all or part of any public square or other public place, plat, street or similar area, the Director shall give notice as prescribed in Section 10.610.
- (2) Upon receipt of a recommendation from the Commission, pursuant to Section 10.515, the City Recorder shall give notice of the petition and hearing by publishing a notice in a newspaper of general circulation once each week for four consecutive weeks.

**10.630 Notice of Annexation Hearing.** The City Recorder shall cause notice of a public hearing

upon a proposed annexation to be published in a newspaper of general circulation once each week for two successive weeks prior to the day of hearing. The City Recorder shall also cause notices of such hearing to be posted in four public places in the City for a like period.

**10.635 Notice of Annexation Election.** The Council shall give notice of each annexation election by publication prior to such election once each week for four successive weeks in a newspaper of general circulation in the city. Whenever simultaneous elections are held, the same notice and publication shall fulfill the requirements of publication for the City election and the election held in the territory. Notice shall also be given by posting notices of the election in four public places within the city if votes are to be cast therein and four public places in each territory proposed to be annexed for a like period as provided in 10.505 to 10.610 for publication of notice. The notice shall distinctly state the proposition to be submitted, shall contain a legal description of and a map indicating the boundaries of each territory proposed to be annexed and the registered voters shall be invited thereby to vote upon such annexation. The Council shall also designate and the notice shall state the hours during which the polls will be open within the city and in each territory proposed to be annexed. If the election is to be held at the usual precinct polling places designated for a general election held at that time or if the election is not held at the same polling places used for the last preceding general election, the notice shall so state; if any polling place is to be different from the regular precinct polling places, the notice shall describe the location of the polling places to be used in the area or precincts in which the polling places are different.

## RULES OF PROCEDURE FOR THE CONDUCT OF HEARINGS

### 10.705 Scope.

- (1) Conduct of all public hearings by the Commission or the Council pursuant to application under Chapters 10 to 14 shall be governed by procedural rules adopted by resolution of the respective body.
- (2) Every person entitled to notice of hearing pursuant to Chapters 10 to 14, shall be entitled to be heard in accordance with the rules as herein established.
- (3) These rules shall be interpreted to promote justice. Technical violations which do not affect substantial rights of parties or of the public, shall not interfere with the hearing of an application.

### 10.710 General Conduct of Hearing.

- (1) **Commencement of Hearing.** At the commencement of a hearing, a statement shall be made by the Commission or Council chair that:
  - a. Lists the applicable review criteria;
  - b. States that testimony and evidence must be directed toward the review criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
  - c. States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
  - d. States that if additional documents or evidence is provided in support of the application, then any party shall be entitled to a continuance of the hearing. Such continuance shall not be subject to the limitations of ORS 227.178 regarding final decisions.
  - e. States that unless there is a continuance, if a participant to the hearing so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 227.178.

## ADMINISTRATIVE REVIEW

### 10.805 Administrative Review - Staff and Procedures

- (1) An applicant for an Administrative Review action shall submit an application in accordance with the provisions of Section 10.505.
- (2) Except as provided by subsection (3) below, application with all required forms, may be processed by the Director without a need for a public hearing. The Director shall mail notice of the proposal to all adjacent property owners as required by Section 10.505. The notice shall summarize the standards and facts related to the decision, invite persons to submit information relevant to the standards and facts that are pertinent to the proposal within five (5) days of notification giving reasons why the application should or should not be approved. The notice shall also advise the person of his right to request a hearing.
- (3) If the Director contemplates that persons can be expected to question the relevant zone requirements, site standard requirements of Chapter 14 and need for the proposed action, or if any property owner entitled to notice under subsection (2) requests a public hearing in writing, the Director will initiate a public hearing on the application. The Director shall set a date for the public hearing and mail notice to those same persons receiving the original notice. The Director may at his discretion, choose to initiate a public hearing and provide notice of such as required herein without making a preliminary determination and mailing notice of such as provided in subsection (2). At the public hearing, the applicant and interested parties may present information and arguments relevant to the proposal including reasons why the application should be approved or denied or proposing modifications that the persons believe necessary for approval.
- (4) The Director shall review the application, written comments and testimony, if any and make a finding for each point in dispute and make a decision on the application by approving, conditionally approving or denying the application within (10) ten days of the closing of the period for comments. The decision of the Director shall be according to quantifiable requirements of Chapter 10 to 14. The decision of the Director shall be reduced to writing and in the event of disapproval, shall set forth the findings for the disapproval. The written decision shall be mailed to the applicant and to any person who has appealed within five (5) working days of the Director's decision.

**10.810 Citizen Involvement.** To assure advisory public involvement in the planning process, every application may be submitted to the citizens of the city for their review and advisory comment through the procedures provided by the Citizen Involvement program as adopted by the Council.



**10.815 Agency Involvement.** To assure affected agencies involvement in the planning process, every application may be referred to appropriate local, state and federal agencies for their review and comment. The Planning Department shall utilize procedures as outlined in the Klamath Falls Urban Growth Boundary Management Agreement in notifying appropriate Klamath County Departments for review and comment and/or recommendation.