

ORDINANCE NO. 1192

AN ORDINANCE ESTABLISHING ZONING REGULATIONS AND REPEALING ORDINANCE NO. 819 AND ALL AMENDMENTS THERETO:

THE CITY OF NORTH BEND ORDAINS AS FOLLOWS:

Section 1. Title This ordinance shall be known as the Zoning Ordinance of the City of North Bend.

Section 2. Basis and Purpose. The Council of the City of North Bend finds that the boundaries of the districts and the classifications, standards, rules and regulations contained in this ordinance are based on two planning studies. The first of such studies was conducted by the Planning Commission, City Staff and professional planners from the Bureau of Municipal Research and Service of the University of Oregon over a three year period resulting in the enactment of this ordinance on February 27, 1962. An additional planning study was initiated in 1975 and was conducted by the City Council, Planning Commission, City Staff, Citizen Committee and professional planners for the Coos-Curry Council of Governments resulting in a new Comprehensive Plan and conforming amendments to this ordinance.

The Council further finds and determines that it is necessary in the interest of the public health, morals, safety, order, comfort, convenience, prosperity and welfare to divide the City into use districts and to provide classifications, standards, rules, and regulations for the use and development of property within those districts in order to safeguard the orderly growth and development of the City, to protect values and uses of property, to secure the safety and well-being of the public, and to prevent the creation of nuisances. (Section 2 as amended by Ordinance No. 1613, passed August 19, 1980.)

Section 3. Definitions In the following paragraphs are definitions of terms used in this

ordinance. If a term is not defined in this ordinance, then it shall have the definition provided in the Building Code which is enforced within the City at the time that the definition becomes applicable. As used in this ordinance the masculine includes the feminine and neuter and the singular includes the plural.

- 1) Accessory Structure or Use A structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use. A home occupation is an accessory use.
- 2) Alley A narrow public right of way through a block primarily for utilities and access to the back or side of properties fronting another street.
- 3) Apartment House See "Dwelling, Multi-family."
- 4) Billboard A sign which advertises a business, commodity or activity which is not sold, manufactured or conducted on the property where the sign is located.
- 5) Building A structure built for the support, shelter, or enclosure of persons, animals, chattels or property of any kind.
- 6) City The City of North Bend, Oregon.
- 7) Dwelling, Duplex; or Dwelling, Two-Family A detached building containing two dwelling units.
- 8) Dwelling, Multi-Family A building containing three or more dwelling units.
- 9) Dwelling, Single-Family A detached building containing one dwelling unit.
- 10) Dwelling Unit One or more rooms designed for occupancy by one family and not having more than one cooking facility. For the purposes of this ordinance the term "dwelling unit" does not include the term "trailer house."
- 11) Family An individual or two or more persons living together in a dwelling unit in which board and lodging are available; provided, that the total number of such persons shall not exceed one for every 200 square feet of living space within a dwelling unit. (Subsection (11) as amended by Ordinance No. 1834, passed April 25, 1995.)
- 12) Fence, Sight-Obscuring A fence or evergreen planting arranged in such a way as to obstruct vision.
- 13) Floor Area The area included in surrounding walls of a building, or portion thereof, exclusive of vent shafts and courts.
- 14) Garage, Private An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

- 15) 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.
- 16) Grade (ground level) The average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- 17) Height of Building The vertical distance from the "grade" to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.
- 18) Home Occupation An occupation commonly carried on within a dwelling by members of the family occupying the dwelling, provided that the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor outwardly manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. A home occupation does not involve the retail sale of a product on the premises nor the use of any accessory building, nor does it occupy more than 30% of the floor area of the dwelling. In the R-5, R-6, R-7 and R-10 Residential Zones, a home occupation does not involve the retail sale on the premises of any product or other thing of value and does not involve the presence on the premises of more than one customer, client or patient at any one time. (Subsection (18) as amended by Ordinance No. 1314, passed November 9, 1965; and Ordinance No. 1321, passed January 25, 1966; and Ordinance No. 1827, passed November 22, 1994.)
- 19) Hospital An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and a nursing service on a continuous basis.
- 20) Hotel A building in which lodging is provided to guests for compensation and in which no provision is made for cooking in the lodging rooms.
- 21) Lot For the purposes of this ordinance, a parcel or tract of land.
- 22) Lot Area The total horizontal area within the lot lines of a lot.
- 23) Lot, Corner A lot abutting on two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than 135°.
- 24) Lot, Depth The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.
- 25) Lot, Interior A lot other than a corner lot.

- 26) Lot Line The property line bounding a lot.
- 27) 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 lot, the shortest lot line along a street other than an alley.
- 28) 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 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.
- 29) Lot Line, Side Any lot line not a front or rear lot line.
- 30) Lot Width The horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
- 31) Mobile Home and Mobile Home Park are defined as provided in ORS 446.003. (Subsection (31) added by Ordinance No. 1757, passed March 13, 1990.)
- 32) Motel A building or group of buildings on the same lot containing guest units with separate entrances directly to the exterior and consisting of individual sleeping quarters, detached or in connected rows, with or without cooking facilities, for rental to transients.
- 33) Nonconforming Structure or Use A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.
- 34) Parking Space A rectangle not less than 20 feet long and eight and a half feet wide together with access space sufficient to permit a standard automobile to be parked within the rectangle without the necessity of moving other vehicles.
- 35) Person Every natural person, firm, partnership, association or corporation.
- 36) Row Housing Two or more attached houses which may be collectively or separately owned on separate lots, and which have common side walls where the houses are attached. (Subsection (36) added by Ordinance No. 1613, passed August 19, 1980.)
- 37) Screening See "Fence, Sight-Obscuring."
- 38) Service Drive A driveway entering a street from a drive-in business establishment or from an off-street parking area, excluding residential driveways, serving fewer than five dwelling units.
- 39) Sign Any device designed to inform or to attract the attention of persons not on the premises.

- 40) **Story** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above grade, the basement or cellar shall be considered a story.
- 41) **Street** The entire width between the boundary lines of every public way provided for public use for vehicular and pedestrian traffic and the placement of utilities and including "road," "highway," "lane," "place," "avenue," or other similar designations.
- 42) **Structure** That which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.
- 43) **Structural Alteration** A change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams or girders, or the roof.
- 44) **Use** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.
- 45) **Vision Clearance Area** A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines for a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings, walls, structures, or temporary or permanent obstructions exceeding three and one-half feet in height measured from the top of the curb.
- 46) **Yard** An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.
- 47) **Yard, Front** A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building.
- 48) **Yard, Rear** A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building.
- 49) **Yard, Side** An open space between the front and rear yards measured horizontally and at right angles from the side lot line to the nearest point of the building.

Section 4. Compliance with Ordinance and Issuance of Occupancy Permits

- 1) No structure or premises may be used or occupied, and no structure or part of a structure may be erected, moved, reconstructed, extended, enlarged, or otherwise altered except as permitted by this Ordinance.
- 2) No premises shall be used or occupied in the Commercial or Industrial Zones unless and until an occupancy permit has been issued by the Building Official for the particular uses and activities to be carried on at such premises. No change in any use or occupancy shall be made at any such premises unless and until an occupancy permit has been issued by the Building Official permitting such

change.

- 3) Applications for occupancy permits shall list the names and addresses of the owners and occupants of the premises and shall describe each and all of the businesses and activities proposed for such premises. Occupancy permits shall describe the business or activity for which the premises may be used or occupied and such permit shall be posted in a conspicuous place at such premises.

(Section 4 amended by Ordinance No. 1473, passed February 12, 1974.)

NOTE: Ordinance No. 1473 provided that all existing occupancies at its effective date may lawfully continue without occupancy permits, and provided for the Building Official to issue permits for existing uses and occupancies.

Section 5. Classification of Zones For the purpose of this ordinance, the City is divided into zones designated as follows:

Zone **Abbreviated Designation**

Residential

Single-Family	R-10
Single-Family	R-7
Single-Family and Duplex	R-6
Single-Family and Duplex	R-5
Multi-Family	R-M
Residential Transition	R-T

NORTH BEND ORDINANCES

Commercial

Limited	C-L
General	C-G
Central	C-C

Industrial

Light	M-L
Heavy	M-H

Floodplain

F-P

Airport

A-Z

(Section 5 as amended by Ordinance No. 1613, passed August 19, 1980.)

Section 6. Zoning Map The location and boundaries of zones designated in Section 5 are hereby established as shown on the map entitled "Zoning Map of the City of North Bend" which shall be dated and signed by the Mayor and the City Recorder. From time to time, the Council may authorize the preparation of new maps which shall be dated and signed by the Mayor and City Recorder. (Section 6 as amended by Ordinance No. 1613, passed August 19, 1980.)

RESIDENTIAL ZONES R-7 AND R-10

Section 7. Uses Permitted Outright In R-7 and R-10 zones the following uses and their accessory uses are permitted outright:

- 1) Raising of flowers, fruits, and vegetables, but not including retail sale on the premises.
- 2) Single-Family dwellings.
- 3) Parks and open spaces which are designated as such by either public or private owners of the land.
- 4) Single family manufactured homes on individual lots subject to the following

restrictions:

- a) The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.
- b) The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter.
- c) The manufactured home shall have a pitched roof, except that a slope shall not be required which is greater than a nominal three feet in height for each 12 feet in width.
- d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing commonly used on residential dwellings within the community or which is comparable to the predominate materials used on surrounding dwellings as determined by the Building Official.
- e) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required by single-family dwellings constructed under the state building code as defined in ORS 455.010.
- f) The manufactured home shall have a garage or carport constructed of like materials. An attached or detached garage in lieu of a carport will be required where such is consistent with the predominate construction of immediately surrounding dwellings.
- g) Manufactured homes shall be subject to all of the restrictions in the residential zone where situated related to signs, lot sizes, yards, height of buildings, lot coverage and other applicable restrictions under the City's zoning and other ordinances.

(Section 7 as amended by Ordinance No. 1255, passed May 12, 1964; and Ordinance No. 1635, passed September 22, 1981; and Ordinance 1815, passed February 8, 1994.)

Section 8. Conditional Uses Permitted In R-7 and R-10 zones the following uses and their accessory uses are permitted when authorized in accordance with Sections 70 to 75:

- 1) Church
- 2) Governmental structure or use including a playground, recreation building, fire station, library, or museum.
- 3) Multi-family dwellings when authorized in accordance with Sections 76-78.
- 4) School: nursery, primary, elementary, junior high or senior high.

- 5) Utility substation or pumping station, not including outside storage.
- 6) Neighborhood grocery store.
- 7) Off-street parking for adjacent commercial uses or commercial zone uses.
- 8) Reconstruction or repair of an existing nonconforming use.

(Section 8 as amended by Ordinance No. 1255, passed May 12, 1964; Ordinance No. 1363, passed February 13, 1968; Ordinance No. 1542, passed April 21, 1977; Ordinance No. 1613, passed August 19, 1980; Ordinance No. 1635, passed September 22, 1981; and Ordinance No. 1757, passed March 13, 1990; and by Ordinance No. 1834, passed April 25, 1995.)

Section 9. Signs In zones R-7 and R-10, signs are subject to City Ordinance No. 1914.

(Section 9 amended by City Ordinance No. 1914, passed February 10, 2004)

Section 10. Lot Size In zones R-7 and R-10 minimum lot size shall be as follows:

- 1) Lot area in R-7 zone shall be at least 7,000 square feet per dwelling unit; and lot area in R-10 zone shall be at least 10,000 square feet per dwelling unit.
- 2) Lot width at the front building line shall be at least 70 feet.

(Section 10 as amended by Ordinance No. 1255, passed May 12, 1964.)

Section 11. Yards Except as provided in Sections 87 and 91, in R-7 and R-10 zones minimum yard requirements are as follows:

- 1) The front yard shall be at least 20 feet.
- 2) Each side yard shall be at least five feet, and the total of both side yards shall be at least 13 feet, except that for corner lots a side yard abutting a street shall be at least 12 feet.
- 3) The rear yard shall be at least 10 feet.

(Section 11 as amended by Ordinance No. 1255, passed May 12, 1964.)

Section 12. Height of Buildings In R-7 and R-10 zones no buildings shall exceed a height of two and a half stories or 35 feet, whichever is lower.

(Section 12 as amended by Ordinance No. 1255, passed May 12, 1964.)

Section 13. Lot Coverage In R-7 and R-10 zones buildings shall not occupy more than 35% of the lot area.

(Section 13 as amended by Ordinance No. 1255, passed May 12, 1964; and Ordinance No. 1613, passed August 19, 1980.)

RESIDENTIAL ZONE R-6

Section 14. Uses Permitted Outright In an R-6 zone the following uses and their accessory uses are permitted outright:

- 1) A use permitted outright in an R-7 zone.
- 2) Two family dwelling.

Section 15. Conditional Uses Permitted In an R-6 zone, the following uses and their accessory uses are permitted when authorized in accordance with Sections 70 to 75:

- 1) A use permitted as a conditional use in an R-7 zone.
- 2) The overnight renting of sleeping quarters with breakfast in a residence commonly known as a "Bed and Breakfast."

(Section 15 as amended by Ordinance No. 1780, passed November 26, 1991.)

Section 16. Signs In zone R-6, signs are subject to City Ordinance No. 1914

(Section 16 amended by City Ordinance No. 1914, passed February 10, 2004)

Section 17. Lot Size In an R-6 zone minimum lot size is as follows:

- 1) Lot area shall be at least 6,000 square feet and shall not be less than 4,500 square feet per dwelling unit.
- 2) Lot width at the front building line shall be at least 60 feet.

Section 18. Yards Except as provided in Sections 87 and 91, in an R-6 zone minimum yard requirements are as follows:

- 1) The front yard shall be at least 20 feet.
- 2) Each side yard shall be at least five feet and the total of both side yards shall be at least 13 feet, except that in the case of a corner lot the side yard abutting the street shall be at least 12 feet.
- 3) The rear yard shall be at least 10 feet.

Section 19. Height of Buildings In an R-6 zone no building shall exceed a height of two and a half stories or 35 feet, whichever is lower.

Section 20. Lot Coverage In an R-6 zone buildings shall not occupy more than 35% of the lot area.

(Section 20 as amended by Ordinance No. 1613, passed August 19, 1980.)

RESIDENTIAL ZONE R-5

Section 21. Uses Permitted Outright A use permitted outright in an R-6 zone is permitted outright in an R-5 zone.

Section 22. Conditional Uses Permitted A use permitted as a conditional use in an R-6 zone is permitted as a conditional use in an R-5 zone.

(Section 22 amended by Ordinance No. 1780, passed November 26, 1991.)

Section 23. Signs In zone R-5, signs are subject to City Ordinance No. 1914

(Section 23 amended by City Ordinance No. 1914, passed February 10, 2004)

Section 24. Lot Size In an R-5 zone minimum lot size is as follows:

- 1) Lot area shall be at least 5,000 square feet and shall not be less than 3,750 feet per dwelling unit.
- 2) Lot width at the front building line shall be at least 50 feet.

Section 25. Yards Except as provided in Sections 87 and 91, in an R-5 zone minimum yard requirements are as follows:

- 1) The front yard shall be at least 20 feet.
- 2) Each side yard shall be at least five feet, and both side yards together shall total at least 13 feet, except that in the case of a corner lot the side yard abutting a street shall be at least 10 feet.
- 3) The rear yard shall be at least 10 feet.

Section 26. Height of Buildings In an R-5 zone no building shall exceed a height of 2½ stories or 35 feet whichever is lower.

Section 27. Lot Coverage In an R-5 zone buildings shall not occupy more than 40% of the lot area.

RESIDENTIAL ZONE R-M

Section 28. Uses Permitted Outright In an R-M zone the following uses and their accessory uses are permitted outright:

- 1) A use permitted outright in an R-6 zone.
- 2) Multi-family dwellings.

(Section 28 as amended by Ordinance No. 1762, passed on November 27, 1990; and by Ordinance No. 1815, passed on February 8, 1994.)

Section 29. Conditional Uses Permitted In an R-M zone, the following uses and their accessory uses are permitted when authorized in accordance with Section 70 to 75:

- 1) A use permitted as a conditional use in an R-6 zone.
- 2) Boarding, lodging or rooming house.
- 3) Mobile home park.

(Section 29 as amended by Ordinance No. 1613, passed August 19, 1980; Ordinance No. 1757, passed March 13, 1990; Ordinance No. 1780, passed November 26, 1991.)

Section 30. Signs In zone R-M, signs are subject to City Ordinance No. 1914

(Section 30 amended by City Ordinance No. 1914, passed February 10, 2004)

Section 31. Lot Size In an R-M zone, minimum lot size is as follows:

- 1) Lot area shall be at least 5,000 square feet and not less than 2,500 square feet per dwelling unit, except that the lot area shall not be less than 1,500 square feet per dwelling unit situated within a building containing more than one floor. (Subsection (1) as amended by Ordinance No. 1287, passed February 9, 1965.)
- 2) Lot width at the front building line shall be at least 50 feet.
- 3) For a row house the lot area shall be at least 2,000 square feet and the lot width at the front building line shall be at least 20 feet. (Subsection (3) as added by Ordinance No. 1613, passed August 19, 1989)

Section 32. Yards Except as provided in Sections 87 and 91, in an R-M zone minimum yard requirements are as follows:

- 1) The front yard shall be at least 20 feet.
- 2) In the case of a building up to 35 feet in height, each side yard shall be at least five feet, and both side yards together shall total at least 13 feet, except that in the case of a corner lot the side yard abutting a street shall be at least 10 feet. In the case of a building higher than 35 feet, the side yard shall be at least five feet plus one foot for each two feet by which the building exceeds 35 feet, except that in the case of a corner lot the side yard abutting a street shall be at least 10 feet.
- 3) The rear yard shall be at least 20 feet.
- 4) No side yard setback shall be required for a row house except where it is adjacent to a street. (Subsection (4) as added by Ordinance No. 1613, passed August 19, 1980.)

Section 33. Height of Buildings In an R-M zone, no building shall exceed a height of 3½ stories or 45 feet, whichever is lower.

Section 34. Lot Coverage In an R-M zone buildings shall not occupy more than 45% of

the lot area. (Section 34 as amended by Ordinance No. 1613, passed August 19, 1980.)

RESIDENTIAL TRANSITION ZONE R-T

Section 35. Residential Uses and Restrictions In the R-T zone the uses permitted outright, conditional uses and regulations concerning, lot size, yards, height of buildings and lot coverage shall be the same as those provided in the R-5 Residential zone. In zone R-T, signs are subject to City Ordinance No. 1914.

(Section 35 as amended by Ordinance No. 1613, passed August 19, 1980 and by City Ordinance No. 1914, passed February 10, 2004)

Section 36. Limited Commercial Rezoning Land within the R-T zone shall be subject to rezoning for certain limited commercial purposes on a conditional use basis under the following regulations and restrictions:

- 1) Rezoning of parcels of land shall be for specified uses which shall be restricted to those which would generate low volumes of traffic and be compatible with adjacent uses.
- 2) All construction and use permits for commercial uses will be subject to review and approval by the Planning Commission which shall apply the following restrictions and conditions:
 - a) No limited commercial use shall be permitted unless it will generate a low

volume of vehicular and pedestrian traffic.

- b) Restrictions shall be imposed so that improvements will be compatible with uses on adjacent properties and such restrictions shall include exercising architectural and design control, controlling commercial density including lot coverage, setbacks and height of buildings, and requiring landscaping and screening of adjacent residential areas and designating the location, height and type of signs.
- c) The impact of traffic on adjacent properties and on adjacent streets shall be controlled by designating the location of driveways, access roads and parking facilities, and by regulating the direction and flow of traffic to and from the property rezoned.
- d) Other restrictions and conditions shall be imposed as may be necessary for the orderly development of the area and its conversion to commercial uses with the least amount of adverse affect upon traffic and adjoining properties.

(Section 36 as amended by Ordinance No. 1613, passed August 19, 1980.)

LIMITED COMMERCIAL ZONE C-L

Section 37. Uses Permitted Outright Uses permitted outright in the C-L zone are business and professional offices and retail sales and services and their accessory uses. (Section 37 previously numbered 41 amended by Ordinance No. 1613, passed August 1980; and as amended by Ordinance No. 1788, passed May 26, 1992.)

Section 38. Conditional Uses Permitted In a C-L zone the following uses and their accessory uses are permitted when authorized in accordance with Sections 70 to 75:

- 1) Reconstruction or repair of an existing non-conforming use
- 2) A use permitted outright in the R-M zone
- 3) Church
- 4) Day nursery
- 5) Utility substation or pumping station
- 6) Governmental use or structure

(Section 38 previously numbered 42 amended by Ordinance No. 1573, passed December 12, 1978; and by Ordinance No. 1613, passed August 19, 1980.)

Section 39. Signs In zone C-L, signs are subject to City Ordinance No. 1914

(Section 39 amended by City Ordinance No. 1914, passed February 10, 2004)

Section 40. Use Limitations Uses in the C-L zone shall be limited as follows:

- 1) Building heights shall not exceed the heights permitted in the R-7 Residential zone.
- 2) Uses on corner lots adjacent to arterial streets will have access from the side street and not from the arterial.
- 3) No use will be of a type or nature that will involve noise, lights, odors or activities likely to disturb or adversely affect adjoining residential and commercial uses.
- 4) No use will be permitted unless it generates low to moderate volumes of vehicular traffic.
- 5) All business, services, processing, storage and display of merchandise will be conducted solely within an enclosed building, with the exception of off-street parking and loading.

(Section 40 previously numbered 44 amended by Ordinance No. 1613, passed August 19, 1980; and also by Ordinance No. 1788, passed May 26, 1992.)

Section 41. Yards Except as provided in Section 91, in a C-L zone minimum yard requirements are as follows:

- 1) The front yard shall be at least 10 feet.
- 2) On the side of a lot abutting a residential zone a yard shall be at least 5 feet plus one foot for each two feet by which the height of the building exceeds 28 feet.
- 3) On the side of a lot abutting a street, a yard shall be at least 10 feet.
- 4) The rear yard shall meet the same requirements as the side yard.

(Section 41 previously numbered 45 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 42. Lot Coverage In a C-L zone buildings shall not occupy more than 50% of the lot area.

GENERAL COMMERCIAL ZONE C-G

Section 43. Uses Permitted Outright Uses permitted outright in the C-G General Commercial Zone are business and professional offices, retail sales, service or repair, and places of public or private assembly or amusement, and their accessory uses.

(Section 43 previously numbered 47 amended by Ordinance No. 1226, passed June 11, 1963; and Ordinance No. 1613, passed August 19, 1980; and by Ordinance No. 1861, passed August 12, 1997.)

Section 44. Conditional Uses Permitted In a C-G zone the following uses and their accessory uses are permitted when authorized in accordance with Sections 70 to 75:

- 1) Improvements to a preexisting, non-conforming use.
- 2) Manufacturing, fabricating or processing of materials or substances for retail sale.
- 3) Utility substations or pumping stations.

(Section 44 as amended by Ordinance No. 1861, passed on August 12, 1997.)

Section 45. Limitations on Use In a C-G Zone uses shall be subject to the following limitations:

- 1) All business, service, processing, storage, or display of merchandise on a lot

abutting or facing a lot in a residential zone shall be conducted wholly within an enclosed building or shall be screened from the residential zone by a sight-obscuring fence or hedge, permanently maintained.

- 2) Openings or access to structures on sides adjacent to or across the street from a residential zone shall be prohibited if they result in glare or excessive noise or otherwise adversely affect residential properties.
- 3) Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement except in any parts of the lot permanently maintained as landscaped area.
- 4) No construction, reconstruction, expansion, addition or alteration shall be commenced in a unified shopping area without approval having first been obtained from the Planning Commission of the City of North Bend of the location and design of any use, structure, access road, driveway or fire lane; the location, design and adequacy of off-street parking facilities; the height of buildings; and the location, type and sufficiency of screening of adjacent residential areas.

In granting any approval under this subsection, the Planning Commission may impose conditions and restrictions for the purpose of insuring orderly commercial development, with adequate access, parking and traffic control. For the purposes of this subsection, "unified shopping area" shall mean any shopping area designed for three or more commercial uses on not less than one acre of land which share common parking areas or points of access. (Subsection (4) added by Ordinance No. 1560, passed May 9, 1978; and amended by Ordinance No. 1732, passed September 26, 1988.)

- 5) All repair, manufacturing, fabricating or processing shall take place within a building, and shall be conducted in such a manner that it will not create noise, odors or emissions that are offensive or disturbing to persons working, shopping or living in the vicinity.
- 6) An accessory use, including warehousing incidental to the principal use, must be located on the same premises as the principal use.

(Section 45 amended by Ordinance No. 1861, adding subsections 5 & 6, passed on August 12, 1997)

Section 46. Yards In a C-G zone minimum yard requirements are as follows:

- 1) On the side of a lot abutting a residential zone, a yard shall be at least 15 feet plus one foot for each two feet by which the height of the building exceeds 28 feet.
- 2) The rear yard shall meet the same requirements as the side yard.

Section 47. Signs In zone C-G, signs are subject to City Ordinance No. 1914

(Section 47 amended by City Ordinance No. 1914, passed February 10, 2004)

Section 48. Lot Coverage In a C-G zone buildings shall not occupy more than 75% of the lot area.

CENTRAL COMMERCIAL DISTRICT C-C

Section 49. Uses Permitted Outright A use permitted outright in a C-G zone is permitted outright in a C-C zone.

Section 50. Conditional Uses Permitted In the C-C zone the following uses and their accessory uses are permitted when authorized in accordance with Sections 70 to 75:

- 1) A use permitted as a conditional use in the C-G zone.
- 2) Apartments not located on the ground floor of a building conforming to the requirements of the C-C zone.

(Section 50 previously numbered 54 amended by Ordinance No. 1268, passed September 8, 1964.)

Section 51A. Limitations on Use Limitations on use in the C-G zone shall apply to uses in a C-C zone.

(Former Section 51 renumbered 51A by Ordinance No. 1692, passed January 22, 1985.)

Section 51B Signs In zone C-C, signs are subject to City Ordinance No. 1914

(Section 51B amended by City Ordinance No. 1914, passed February 10, 2004)

Section 52. Yards Yard requirements for a C-G zone shall apply in a C-C zone.

LIGHT INDUSTRIAL DISTRICT M-L

Section 53. Uses Permitted Outright In an M-L Zone, subject to the limitations provided herein, uses permitted outright include wholesale supply, utility operations and facilities, warehousing, compounding, packaging, processing, repairing, fabricating, marshalling, shipping, light manufacturing, and servicing of materials, equipment, supplies and other personal property, and other compatible uses having similar impacts on traffic and surrounding or adjoining properties.

(Section 53 amended by Ordinance No. 1863, passed on November 25, 1997.)

Section 54. Conditional Uses Permitted In an M-L zone the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Sections 70 to 75:

- 1) Governmental structure or use.
- 2) A use permitted outright in the C-G zone. (Subsection (2) added by Ordinance No. 1373, passed December 10, 1968.)
- 3) Improvement of an existing dwelling requiring a building permit. (Subsection (3) added by Ordinance No. 1613, passed August 19, 1980.)
- 4) Areas for the accommodation of recreational vehicles and/or trailers, commonly known as RV parks or travel parks. (Subsection (5) added by Ordinance No. 1798, passed March 9, 1993.)

(Section 54 amended by Ordinance No. 1825, passed October 25, 1994.)

Section 55. Limitations on Use In an M-L zone, the following conditions and limitations shall apply:

- 1) Any use which creates a nuisance because of noise, smoke, odor, dust or gas is prohibited.
- 2) Materials shall be stored and grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or otherwise create a health hazard.
- 3) All service, processing and storage on property abutting or facing a residential zone shall be wholly within an enclosed building or screened from view from the residential zone by a permanently maintained, sight-obscuring fence at least six feet high.
- 4) Points of access from a public street to properties in a M-L zone shall be so located as to minimize traffic congestion and avoid directing traffic onto residential streets.
- 5) Building entrances or other openings adjacent to or across the street from a residential zone shall be prohibited if they cause glare, excessive noise or otherwise adversely affect residential uses.

Section 56. Signs In zone M-L, signs are subject to City Ordinance No. 1914

(Section 56 amended by City Ordinance No. 1914, passed February 10, 2004)

Section 57. Yards In a M-L zone, on the side or rear of a lot abutting a residential zone, a yard shall be at least 20 feet.

Section 58. Height of Buildings In a M-L zone no structure shall exceed a height of 45 feet, except that within 150 feet of a residential zone no structure shall exceed a height of 35 feet.

HEAVY INDUSTRIAL DISTRICT M-H

Section 59. Uses Permitted Outright In a M-H zone the following uses and their accessory uses are permitted outright:

- 1) A use permitted outright in a M-L zone.
- 2) Manufacturing, repairing, compounding, fabricating, processing, packing or storage.

Section 60. Conditional Uses Permitted In a M-H zone the following uses and their accessory uses are permitted when authorized in accordance with Sections 70 to 75:

- 1) Governmental structure or use.
- 2) Junk yard, automobile wrecking yard.
- 3) The retail sale of items manufactured, compounded, fabricated, processed or assembled on the premises. (Subsection (3) added by Ordinance No. 1592, passed October 9, 1979.)
- 4) Areas for the accommodation of recreational vehicles and/or house trailers, commonly known as RV parks or travel parks. (Subsection (4) added by Ordinance No. 1798, passed March 9, 1993.)

Section 61. Limitations on Use In an M-H zone the following conditions and limitations shall apply:

- 1) A use having a primary function of storing, utilizing, or manufacturing explosive materials is prohibited.

- 2) A use which creates a nuisance because of noise, smoke, odor, dust or gas is prohibited.
- 3) Wastes and other materials shall be stored and grounds shall be maintained in a manner that will not attract or aid the propagation of insects or rodents or otherwise create a health hazard.
- 4) Signs: In zone M-H, signs are subject to City Ordinance No. 1914
(Subsection 4 added by City Ordinance No. 1914, passed February 10, 2004)

AIRPORT ZONE A-Z

Section 62. Designation of Zone The Airport zone A-Z shall include all of the land contained within the boundaries of the North Bend Municipal Airport as shown on the Airport Property Map. (Section 62 added by Ordinance No. 1613, passed August 19, 1980.)

Section 63. Uses

- 1) **Uses Permitted Outright** In the A-Z zone the following uses and their accessory uses are permitted outright:
 - a) Airport and airport related uses.
 - b) All uses permitted outright and as conditional uses in the Light Industrial District M-L.
- 2) **Conditional Uses Permitted** In the A-Z zone the following uses and their accessory uses are permitted when authorized in accordance with Section 70 to 75:
 - a) A use permitted outright in the C-G or R-M zone.
 - b) A use permitted as a conditional use in the C-G or R-M zone.
- 3) **Limitations on Use** In the A-Z zone the following limitations on use shall apply:
 - a) In granting conditional uses, conflicts and potential conflicts between adjacent uses which are ordinarily not allowed in the same zone shall be considered and resolved in granting such conditional uses.
 - b) Residential uses shall not be permitted within a noise impact area as defined in the Airport Master Plan.

- c) Signs: In zone A-Z, signs are subject to City Ordinance No. 1914 (Subsection 4 amended by City Ordinance No. 1914, passed February 10, 2004)

(Section 63 added by Ordinance No. 1613, passed August 19, 1980; and amended by Ordinance No. 1635, passed September 22, 1981.)

FLOODPLAIN ZONE F-P

Section 64. Definitions As used in Sections 64 to 69, inclusive, words and phrases shall have their ordinary meanings in common usage, except that specifically defined words and phrases shall have meanings as follows:

- 1) **Base Flood:** The flood having a 1% chance of being equaled or exceeded in any given year.
- 2) **Basement:** Any area of a building having its floor below ground level on all sides.
- 3) **Development:** Any man-made change to improve or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- 4) **Flood or Flooding:**
 - a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1) The overflow of inland or tidal waters.
 - 2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - 3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- 5) **Flood Insurance Rate Map (FIRM):** The official map showing the boundaries of the floodplain zone, the special hazard areas and risk premium zones as published by the National Flood Insurance Program and adopted by the City Council.

- 6) **Flood Insurance Study:** The study prepared for the City and the Federal Emergency Management Agency to be used as a data base for administration and enforcement of Sections 64 to 69, inclusive, of this ordinance and adopted by the City Council.
- 7) **Floodway:** The channel of a river and the portion of the floodplain that carries most of the flood.
- 8) **Lowest Floor:** The lowest floor of the lowest enclosed area (including basement) of a building. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- 9) **Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include recreational vehicles.
- 10) **Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into four or more manufactured home lots for rent or sale.
- 11) **Recreational Vehicle:** A vehicle that is:
- a) Built on a single chassis;
 - b) 400 square feet or less when measured at the largest horizontal projection;
 - c) Designed to be self-propelled or permanently towable by a light duty truck;
 - d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel or seasonal use.
- 12) **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 footings, 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, footings, piers, or foundations or 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.
- 13) **Structure:** A walled and roofed building, including a gas or liquid storage tank, that is principally above ground. "Structure" for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally

above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

14) **Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed value of the structure before the damage occurred.

15) **Substantial Improvement:**

a) Any repair or improvement of a structure where the cost of the improvement equals or exceeds 50 percent of the assessed value of the structure;

b) Reconstruction or repair of a structure that exceeds 50 percent of the assessed value of the structure before it was damaged;

c) Additions to an existing structure when the addition increases the assessed value of the structure by more than 50 percent or the floor area by more than 20 percent.

(Section 64 added by Ordinance No. 1613, passed August 19, 1980; revised and amended by Ordinance No. 1714, passed February 10, 1987; revised and amended by Ordinance No. 1907 passed October 14, 2003)

Section 65. Regulations in the F-P Zone The boundaries of the Floodplain zone shall be the same as the boundaries shown on the FIRM which is in effect as published by the Federal Insurance Administration. The Floodplain zone shall be superimposed on other use zones. In addition to the regulations provided in a use zone, development of land within the Floodplain zone shall be subject to the following regulations:

1) An application for a development permit in the Floodplain zone shall take into account the best available information on flood conditions affecting the land. The City shall keep on file in the office of the City Engineer the best information known to the City Engineer. If the applicant has access to additional information and can establish its reliability, the City Engineer may permit its use providing the information is not in conflict with data provided by the Federal Insurance Administration. The applicant shall use the information in preparing the application and to demonstrate compliance with the requirements of this ordinance.

2) Encroachments, including fill, new construction, substantial improvements and other development are prohibited in the floodway unless certification by a registered professional engineer is provided demonstrating that the encroachment will not result in any measurable increase in flood levels during the occurrence of the base flood discharge.

- 3) When a proposed development will alter or relocate a watercourse, the application shall describe a program of watercourse maintenance. The development shall be designed, constructed and maintained to retain the flood carrying capacity of the watercourse without raising the water elevation during a period of base flood discharge. At least ten days before issuing a permit involving watercourse alteration or relocation, the City Engineer shall notify the officials of an adjacent upstream city and the State Department of Land Conservation and Development of the date on which the permit is proposed to be issued. Evidence of the notification also shall be submitted to the Federal Emergency Management Agency.
- 4) All permit applications shall be reviewed to determine that all necessary permits have been obtained from those federal, state and local governmental agencies for which approval is required.
- 5) All permit applications shall be reviewed to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements shall be designed and adequately anchored to prevent flotation, collapse or lateral movement of the structure, be constructed with materials and utility equipment resistant to flood damage, and be constructed by methods and practices that minimize flood damage.
- 6) Permits shall be required for all proposed construction and other developments including the placement of manufactured homes within Zone A of the Flood Hazard Boundary Map.
- 7) Whenever the City shall receive application for any subdivision or partition of land within the Flood Plain zone F-P, it shall review such proposal to determine whether it will be reasonably safe from flooding; and if such subdivision or partition is within a flood-prone area, it shall be reviewed to assure that it is consistent with the need to minimize flood damage, that all utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and that adequate drainage is provided to reduce exposure to flood hazards. All proposed subdivisions having an area greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.
- 8) All manufactured home parks or subdivisions within Zones A1-30 on the City's Flood Insurance Rate Map shall have stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be elevated to at least one foot above the base flood level, and shall have adequate surface drainage and access for the hauler of the manufactured home. Where the elevation is provided by pilings, lots shall be large enough to permit steps and piling foundation shall be placed in stable soil no more than 10 feet apart, and re-enforcement shall be provided for pilings more than 6 feet above the ground level. The foregoing requirement shall also apply to all individual manufactured homes not within a manufactured home park or subdivision if otherwise allowed by the zoning ordinance. No manufactured home shall be permitted within the adopted regulatory floodway.
- 9) All manufactured homes to be placed or substantially improved within Zones A1-30,

and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 67 of this ordinance.

- 10) For all new construction and substantial improvements of both residential and non-residential structures, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 11) Recreational vehicles placed on sites within Zones A1-30, AH and AE on the City's Flood Insurance Rate Map either will:
 - a) Be on the site fewer than 180 consecutive days; and
 - b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions; or
 - c) Meet the requirements of subsection 9 of this section.
- 12) The City Engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, as a criteria for requiring that new construction, substantial improvements, or other development in Zone A meet the requirements of this ordinance and Federal Floodplain Management Criteria.
- 13) Where a non-residential structure is intended to be made watertight below the base flood level, (a) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of these regulations, and (b) a record of such certificates which includes the specific elevation (in relationship to mean sea level) to which such structures are flood proofed shall be maintained with the City Engineer.
- 14) The degree of flood protection required by this ordinance is considered reasonable for

regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance shall not create liability on the part of the City of North Bend, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

(Section 65 added by Ordinance No. 1613, passed August 19, 1980; Subsections (5) through (9) added by Ordinance No. 1687, passed July 24, 1984; and revised and amended by Ordinance No. 1714, passed February 10, 1987; revised and amended by Ordinance No. 1907, passed October 14, 2003.)

Section 66. Structural Elevation Data in Flood Area

- 1) Within the floodplain zone, a development permit application for a new or substantially improved structure or a manufactured home shall include the following additional data referenced to mean sea level.
 - a) The elevation of the bottom of the lowest structural member of the lowest floor.
 - b) The elevation to which the structure is to be flood proofed, if applicable.
 - c) A statement shall accompany the elevation data noting whether or not the structure contains a basement.
- 2) On completion of the development for which a permit has been issued, there shall be filed with the City the elevation to which the structure has been flood proofed.
- 3) The information required by this section shall be maintained in the files.

(Section 66 added by Ordinance No. 1613, passed August 19, 1980 and revised and amended by Ordinance No. 1714, passed February 10, 1987.)

Section 67. Structure Siting in Flood Area Within the Flood Plain zone, a new or substantially improved building or other structure or a newly installed manufactured home shall comply with the following, taking into account conditions during a period of base flood discharge.

- 1) Design and anchoring shall prevent flotation, collapse or lateral movement of the structure during a flood reaching the base flood level. In the case of a manufactured home, the anchoring shall be as follows:
 - a) Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations except that a manufactured home that is less than 50 feet long need have only one additional tie per side.
 - b) Frame ties shall be provided at each corner of the home with five additional ties

per side at intermediate points except that a manufactured home less than 50 feet long need have only four additional ties per side.

c) All components of the anchoring system, including ties, shall be capable of carrying a force of 4,800 pounds.

- 2) Materials and utility equipment shall be resistant to flood damage.
- 3) Construction methods and practices shall minimize flood damage.
- 4) The lowest habitable floor, and any basement floor whether or not the basement is intended to be habitable, shall be elevated at least one foot above the base flood level shown on the Flood Insurance Rate Map unless a greater height is required to comply with Section 69.
- 5) Unless the lowest floor elevation, including a basement floor, is one foot above the base flood elevation, a nonresidential structure shall be designed so that the structure is substantially impermeable to the passage of water and otherwise flood proofed at least to a level two feet above the base flood level. The structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(Section 67 added by Ordinance No. 1613, passed August 19, 1980 and revised and amended by Ordinance No. 1714, passed February 10, 1987.)

Section 68. Facility Standards in a Flood Hazard Area

- 1) A public utility or facility associated with a subdivision or other new land development within a flood hazard area shall be designated, located and constructed to minimize or eliminate flood damage and to avoid raising the water elevation in a regulatory floodway.
- 2) A new or replacement water supply system shall be designed, located and constructed to minimize or eliminate infiltration of floodwaters into the system.
- 3) A new or replacement sanitary sewage system shall be designed, located and constructed to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into the floodwaters.
- 4) An on-site septic tank system or other individual waste disposal system shall be located to avoid impairment or contamination during flooding.
- 5) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Section 68 added by Ordinance No. 1613, passed August 19, 1980; revised and amended by Ordinance No. 1714, passed February 10, 1987.)

Section 69. Floodproofing When floodproofing is utilized for a structure, a registered engineer or licensed architect shall certify that the floodproofing method is adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood and otherwise conforms to the floodproofing standards of the State Structural Specialty Code in effect at the time of construction. A record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained with the City Engineer.

(Section 69 added by Ordinance No. 1613, passed August 19, 1980; revised and amended by Ordinance No. 1714, passed February 10, 1987.)

CONDITIONAL USES

Section 70. Authorization to Grant or Deny Conditional Uses Uses designated in this ordinance as conditional uses may be permitted, enlarged, or otherwise altered upon authorization by the Planning Commission in accordance with the standards and procedures set forth in Sections 70 to 75. Conditional uses are those which may be appropriate, desirable, convenient, or necessary in the district which they are allowed but which by reason of their height or bulk or the creation of traffic hazards or parking problems or other adverse conditions may be injurious to the public safety, welfare, comfort, and convenience unless appropriate conditions are imposed. Conditional uses shall be allowed provided that they comply with all of the standards and conditions imposed under the provisions and procedures of this ordinance, any other applicable ordinance of this city and laws of the State of Oregon.

These conditions may include increasing the required lot size or yard dimensions, limiting the height of buildings, controlling the location and number of vehicle access points, increasing the street width, increasing the number of off-street parking and loading spaces required, limiting the number, size, and location of signs, and requiring screening and landscaping to protect adjacent property. In the case of a use existing prior to the effective date of this ordinance and which is classified in this ordinance as a conditional use, any change in use or in lot area or in any alteration of the structure shall conform with the requirements dealing with conditional uses.

(Section 70 amended by Ordinance No. 1635, passed September 22, 1981.)

Section 71. Application for a Conditional Use A property owner or his authorized agent may initiate a request for a conditional use or the modification of an existing conditional use by filing an application with the City Recorder using forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development and names and addresses of property owners within 100 feet. The Planning Director, or the City Administrator if there is no Planning Director, may require other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties. At the time the application is filed, the City Recorder shall estimate the total fees, costs and expenses to the City of North Bend for publishing and mailing notices of hearing, for the conducting of such hearing, and the making of any record of the proceedings. Before any notice is published or mailed, the applicant shall deposit with the City Recorder the total amount of the estimated fees, costs and expenses and said amount shall be held by the City Recorder until the actual fees, costs and expenses are determined. In the event that the amount deposited is in excess of the actual fees, costs and expenses, then the City Recorder shall return to the applicant such excess; but if said actual costs are in excess of the amount deposited then the City Recorder shall notify the applicant and require payment to the City of such excess. When the entire amount of fees, costs and expenses have been ascertained and collected the amount thereof shall be paid into the city treasury. (Section 71 previously numbered 67; amended by Ordinance No. 1613, passed August 19, 1980.)

Section 72. Hearing on Conditional Use Before granting or denying a conditional use, a hearing shall be held before a hearing officer or the Planning Commission within 40 days of the time that the application is complete. Except as otherwise provided in this section and Sections 73 and 74, the procedures for hearings shall be the same as those provided in Section 113 of this ordinance. (Section 72 amended by Ordinance No. 1757, passed by the City Council on March 13, 1990.)

Section 73. Notices At least ten days notice of a hearing shall be mailed to the applicant and the owners of record of property on the most recent property tax assessment roll located within 100 feet of the property which is the subject of the notice. The notice shall explain the nature of the application and the proposed use or uses which could be authorized, list the applicable criteria from the ordinance and plan that apply to the application, set forth the street address or other easily understood geographical reference to the property, state the date, time and location of the hearing, state that a failure to raise an issue at the hearing in person or by letter or to provide sufficient specificity to afford an opportunity to respond to an issue precludes appeal on that issue, include the name of the city representative to contact and the telephone number where additional information may be obtained, state that a copy of the application, all documents and evidence relied on by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable rates, and include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing. (Section 73 amended by Ordinance No. 1757, passed by the City Council on March 13, 1990.)

Section 74. Decisions Decisions of the hearing officer or Planning Commission shall be effective and final when they are filed with the City Recorder and mailed to the applicant and other parties to the proceeding. (Section 74 amended by Ordinance No. 1757, passed by the City Council March 13, 1990.)

Section 75. Standards Governing Conditional Uses A conditional use shall comply with the standards of the zone in which it is located except as these standards may have been modified in authorizing the conditional use or as otherwise provided as follows:

- 1) **Yards** In a residential zone yards shall be at least 2/3 the height of the principal structure. In any zone, additional yard requirements may be imposed. (Subsection (1) of Section 75, previously numbered 71, amended by Ordinance No. 1613, passed August 19, 1980.)
- 2) **Height Exception** A church or governmental building may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed 1½ times the area of the site and if the yard dimensions in each case are equal to at least 2/3 of the height of the principal structure.

- 3) **Limitation on Access to Property and on Openings to Buildings** The city may limit or prohibit vehicle access from a conditional use to a residential street and it may limit or prohibit building openings within 50 feet of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.
- 4) **Signs** In the case of a conditional use the sign limitations of a zone may be exceeded to allow one indirectly illuminated sign or non-illuminated sign, not more than six square feet in area on each side of a structure abutting a street. In addition, a church may have a bulletin board not exceeding ten square feet in area. A sign shall pertain to the conditional use and may be located in required yards.
- 5) **Schools**
 - a) Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from abutting lots.
 - b) Primary schools shall provide one acre of site area for each 90 pupils or one acre for every three classrooms whichever is greater.
 - c) Elementary schools shall provide one acre of site area for each 75 pupils or one acre for every 2½ classrooms whichever is greater.
- 6) **Service Stations** A service station may be permitted as a conditional use if adjacent property is not adversely affected by noise, smoke, odors or glare, and if the service station does not interfere with the shopping pattern of a retail business district.
- 7) **Utility Substation or Pumping Substation** In the case of a utility substation or pumping substation, the City may waive the minimum lot size requirement only if it is determined that the waiver will not have a detrimental effect on adjacent property.
- 8) **Row Houses** Provision shall be made for row houses to have adequate access to rear yard areas.

9) **Mobile Home Parks**

- a) Mobile home parks shall comply with all rules, regulations and standards of the State of Oregon.
- b) Improvements in a mobile home park shall include paved streets, roads and parking areas, installation and connection to public sewer and water systems, and the installation of adequate public fire hydrants. Roadways shall be so designed as to accommodate the movement of public fire vehicles to provide protection to the entire park.
- c) Separate storm and sanitary sewer systems shall be provided in all mobile home parks and storm waters shall not be discharged into the sanitary sewer system. No storm water shall be permitted to drain onto adjacent public or private property except into natural water courses or a storm sewer system.
- d) All public streets within the mobile home parks shall be constructed to City standards and accepted by the City for maintenance prior to use and occupancy of the park. Private roads shall be paved to a width of not less than 20 feet, exclusive of any adjacent parking areas; and such roads shall contain positive channeling of storm water which shall be collected in the storm sewer facilities. Both public and private roads and streets must be illuminated by a lighting system approved by the City. Areas within public or private streets and roads shall not be included as a part of required off-street parking.
- e) Based on the size, characteristics and occupancy proposed for a mobile home park, it may be required to provide landscaping, playground, open space or other common facilities.
- f) The minimum site size for a mobile home park is three acres.
- g) A mobile home shall have a water closet, lavatory and bathtub or shower, a kitchen area containing a sink and shall be connected to public sewer and water lines.
- h) A mobile home shall have continuous skirting, its wheels shall be removed when installed, and if it is a single-wide unit, it shall be tied down with devices that meet state standards, and in a floodplain area a double wide mobile home may be required to be tied down.
- i) In mobile home parks in common ownership, each space for a mobile

home shall contain not less than 3,630 square feet exclusive of space provided for common use of tenants, roadways, general use structures, guest parking, walkways and areas for recreation and landscaping purposes. Each mobile home shall occupy not more than 40% of the contiguous space provided for the exclusive use of the occupants of the mobile home and exclusive of space provided for common use of tenants. No mobile home in the park shall be located closer than 15 feet from another mobile home or from a general use building in the park. No mobile home accessory building or other building or structure on a mobile home space shall be closer than 10 feet from a mobile home accessory building or other building or structure on another mobile home space. No mobile home or other building or structure shall be within 25 feet of a public street property boundary or 10 feet of another property boundary. The land which is used for park purposes shall be surrounded except at the entry and exit places by a sight-obscuring fence or hedge not less than 6 feet in height, and the fence or hedge shall be maintained to have a neat appearance.

- j) In a mobile home park in which individual lots are separately owned, the same person shall own the mobile home to be situated thereon, and the owner of the lot shall agree that if the mobile home is removed from its foundation, the owner shall within 30 days either replace the mobile home with another approved home or remove the foundation, mobile home accessory structures and other structures on the property and disconnect sewer, water and other utilities. The agreement shall further provide that the City may make the removal and disconnection and place a lien against the property for the cost of the work if the individual ownership shall comply with the lot size, yard, height, lot coverage and other requirements of the R-M zone in which it is situated.

(Subsections (8) and (9) added by Ordinance No. 1635, passed September 22, 1981; and Subsection (9) amended by Ordinance No. 1757, passed on March 13, 1990.)

PLANNED HOUSING DEVELOPMENT

Section 76. Planned Unit Developments

- 1) **Conditional Uses.** Planned housing developments and planned communities provided for in ORS Chapter 94 (collectively referred to as "PUDs") are conditional uses in all residential zoning districts within the City of North Bend, except the R-10 District, provided that they meet the standards of Section 76,77 and 78 of this Ordinance.
- 2) **Definitions.** Definitions of terms for PUDs shall include those in ORS Chapter 94 relating to planned communities and, when applicable, definitions in ORS Chapter 92.
- 3) **Applicable Regulations.** PUDs shall comply with both this Ordinance and the Subdivision Ordinance of the City, No. 1175, except that design standards in the Subdivision and Zoning Ordinances (other than those in
- 4) Sections 76,77 and 78) may be varied by the Planning Commission or Hearings Officer based on findings that a particular standard is unnecessary and inappropriate in a particular plan of development.

(Section 76 amended by Ordinance No. 1824, passed October 25, 1994; and by Ordinance No. 1848, passed August 13, 1996.)

Section 77. Minimum Standards for a PUD

A PUD shall comply with the following

minimum standards and criteria:

- 1) **Size.** The minimum site size shall be three (3) acres, except that a PUD may be allowed on a tract of land under three acres if the Planning Commission or Hearings Officer finds, upon a showing of the applicant, that a PUD is appropriate and not detrimental to adjoining property, and that
 - a) an unusual physical feature of the property exists which can be conserved and still leave the landowner equivalent use of the property through the planned development process;
 - b) the property or its neighborhood has historical, topographical, or other distinctive features that are important to the local community that could be protected or enhanced by a PUD; or
 - c) the property is adjacent to or in the immediate vicinity of a PUD of similar design and the developments would complement each other without significant impact on surrounding areas.
- 2) **Lot Coverage.** Lot coverage requirements in a zone may be applied to the overall development site of a planned community rather than individual lots.
- 3) **Parking.** Off street parking and loading shall comply with the standards of this

Ordinance, except that parking shall be located within 200 feet of the dwelling it is intended to serve.

- 4) **Access.** Access to a PUD shall be from a residential, collector or arterial street shown on an officially adopted street plan. The access and circulation of the PUD should be designed to have a minimum impact on minor residential streets surrounding the area.
- 5) **Internal Streets or Driveways.** The internal streets and driveways of a PUD may be public or private subject to the following provisions:
 - a) Public streets shall comply with the Subdivision Ordinance of the City, unless modified by the Planning Commission or Hearings Officer. A lot in a PUD need not abut a public street provided that it has adequate access to a public street.
 - b) Private streets shall be maintained in a single or common ownership and may be owned or controlled by a homeowners association.
- 6) **Density.** No PUD shall be approved in any residential zoning district if the housing density of the proposed development will exceed by the maximum permitted density in the underlying residential district. Maximum housing density is calculated for this purpose by multiplying the total gross area of the development by the district density factor. (Subsection (6) previously amended by Ordinance No. 1825, passed October 25, 1994.)
- 7) **Yards.** Yard requirements for PUDs are as follows:
 - a) Required yards shall be the same as provided in the applicable residential zone, except that when a lot abuts a common area dedicated to open space which will provide the same yard requirements, the yard area for the lot may be reduced accordingly.
 - b) A minimum yard of at least twenty feet adjacent to a public street or alley and ten feet from an adjoining property shall be maintained around the perimeter of the development site.
 - c) The Planning Commission or Hearings Officer may permit variances from the minimum setbacks requirements between multi-family buildings in a PUD provided access is not limited to yard areas from streets and no public safety problems are created.

(Section 77 amended by Ordinance No. 1848, passed on August 13, 1996)

Section 78. Application and Development Plan For a PUD conditional uses, the application and plan shall contain the following:

- 1) **Application:** Applications for a PUD conditional use permit shall include all of the information necessary to show compliance with the standards and criteria of Sections 76,77 and 78 of this Ordinance for the type of PUD proposed; and

where there may be a division in the ownership of land, the application shall also comply with applicable provisions of the Subdivision Ordinance.

- 2) **Preliminary Development Plan:** Applications shall be accompanied by a Preliminary Development Plan which shall provide the following information:
- a) A land use plan indicating all proposed uses within the PUD, and the type of ownership pattern (condominium, townhouse or multiplex lots, row houses). For planned communities, the plan should delineate operation and maintenance criteria consistent with ORS 94.550 through 94.785.
 - b) All areas proposed to be dedicated for interior streets and circulation, public parks, playgrounds, school sites, public buildings or otherwise dedicated or reserved for public uses, shall be shown on the plan.
 - c) All open space, recreational and common areas that are to be maintained and controlled by the owners of the property, their successors and assigns, including private streets and ways, parking areas, swimming pools, tennis courts, and other common areas, under a management and operations plan shall be indicated.
 - d) Public facilities, including lot drainage, storm drains, sanitary sewer, domestic water, street system (public or private) with appropriate dimensions, and a circulation plan showing circulation patterns.
 - e) Pedestrian walkways, bike paths, and parking areas, including garages, carports, and similar uses.
 - f) Location and number of all parcels, lots or units that will be made available for sale.
 - g) A landscape plan, showing general orientation of tree locations, ground cover, grades, slopes, screen plantings and fences, and landscaped common areas.
 - h) An architectural sketch, showing typical buildings, approximate location on the lots, and generally showing height, bulk, type of construction and architectural features.
 - i) Drafts of appropriate conditions, covenants and restrictions and other documents (such as Homeowners Association Bylaws, etc.) providing for the reservation and maintenance of any open space and recreation areas not dedicated to the public.
 - j) Any other pertinent information necessary to assist the Planning Commission or Hearings Officer in making a determination, such as the

development schedule for construction.

- 3) **Conditions:** In approving a PUD, the Planning Commission or Hearings Officer may impose conditions in addition to those contained in Sections 70 to 75 of this Ordinance. Conditions may be imposed to assure maximum privacy and quiet for the separate families, to protect the adjacent streets from undue congestion, to provide for suitable open space and recreation area, and to carry out the general purposes of this Ordinance.
- 4) **Final Development Plan and Plat:** A final development plan shall be filed for approval with the Planning Commission or Hearings Officer; and, when applicable, a final plat will also be filed before approval.
- 5) **Changes and Amendments:** Development plans may be amended as provided for conditional use permits in this ordinance; and amendments to lot or parcel lines may be made as provided in the Subdivision Ordinance.

(Section 78 previously numbered Section 74, amended by Ordinance No. 1613, passed August 19, 1980; and by Ordinance No. 1848, passed August 13, 1996.)

OFF-STREET PARKING AND LOADING

Section 79. Off-Street Parking and Loading Required In all zones except a C-C zone, off-street parking and loading space shall be provided as set forth in the following six sections: (Section 79 previously numbered 75, amended by Ordinance No. 1613, passed August 19, 1980.)

Section 80. Minimum Off-Street Parking Space Requirements The minimum off-street

parking space requirements are as follows:

1) Residential Type of Development and Number of Parking Spaces

Single family dwelling	2 per dwelling
Multi-family dwelling	3 per 2 dwelling units
Sorority, fraternity or dormitory	1 per 2 occupants
Residential hotel, rooming or boarding house or club	2 per 3 guest rooms
Hotel or motel	1 per guest room or suite, plus 1 per 2 employees
Mobile home park	1 per mobile homesite, plus 1 per site for guest parking at a convenient location
Planned Unit Development	In addition to the requirements for dwelling units, 1 per 2 units for guest parking at a convenient location.

2) Commercial Type of Development and Number of Parking Spaces

General retail or personal service	1 per 200 square feet floor area
Furniture or appliance store	1 per 500 square feet floor area
Auto, boat or trailer sales, or nursery	1 per 1,000 square feet floor area, plus 1 per 2 employees
Barber shop or beauty parlor	1 per 100 square feet floor area
General, professional or banking office	1 per 300 square feet floor area
Medical or dental office or clinic	1 per 200 square feet floor area
Eating or drinking establishment	1 per 100 square feet floor area
Theater, gymnasium, racetrack, stadium or similar use	1 per 4 seats or 8 feet bench length
Bowling alley	2 per lane
Skating rink or dance hall	1 per 100 square feet floor area, plus 1 per 2 employees
Amusement Park	1 per 1,000 square feet floor area, plus 1 per 2 employees
Service station	1 per 2,000 square feet lot area

3) Institutional, Public and Quasi-Public Type of Development and Number of Parking Spaces

Child care center or kindergarten	1 per 2 employees, plus 1 per 5 children
School, elementary or junior high	2 per teacher
College, university or trade school	2 per classroom, plus 1 per 5 students
Library	1 per 400 square feet floor area, plus 1 per 2

Church, chapel, mortuary or auditorium	employees 1 per 4 seats or 8 feet bench length
Nursing or convalescent home	1 per 2 beds for patients and residents
Hospital	3 per 2 beds
Golf course	8 per hole

4) ***Industrial Type of Development and Number of Parking Spaces***

Storage, warehouse or manufacturing establishment; air, rail or trucking freight terminal	1 per employee on largest shift
Public utility (gas, water, telephone, etc.)	1 per 2 employees on largest shift, plus 1 per company vehicle

- 5) Requirements for a building or development not specifically listed herein shall be determined by the Planning Commission based upon the requirements of comparable used listed.

(Section 80 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 81. Off-Street Parking Restriction

- 1) Parking spaces in a public street, including an alley, shall not be eligible as fulfilling any part of the parking requirements.
- 2) Except for residential area, required parking facilities may be located on an adjacent parcel of land or separated only by an alley, provided the adjacent parcel is maintained in the same ownership as the use it is required to serve. Except for industrial uses, required parking shall not be located in a required front or side yard setback area abutting a public street.
- 3) In the event that several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements for the several uses computed separately.
- 4) Required parking facilities of two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that it can be shown by the owners or operators that the need for the facilities does not materially overlap (e.g., uses primarily of a daytime vs. nighttime nature) and provided that such right of joint use is evidenced by a deed, lease, contract or similar written instrument establishing such joint use.
- 5) Required parking shall be available for parking of operable passenger vehicles of

residents, customers and employees only, and shall not be used for the storage or display of vehicles or materials.

(Section 81 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 82. Off-Street Parking Plan A plan drawn to scale indicating how the off-street parking and loading requirement is to be fulfilled, shall accompany the application for a development permit. The plan shall show all those elements necessary to indicate that these requirements are being fulfilled and shall include but not be limited to:

- 1) Delineation of individual parking spaces.
- 2) Circulation area necessary to serve spaces.
- 3) Access to streets, alleys, and properties to be served.
- 4) Curb cuts.
- 5) Dimensions, continuity and substance of screening.
- 6) Grading, drainage, surfacing and subgrading details.
- 7) Delineations of all structures or other obstacles to parking and circulation on the site.
- 8) Specifications as to signs and bumper guards.

(Section 82 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 83. Off-Street Parking Construction Required parking spaces shall be improved and available for use at the time of final building inspection.

(Section 83 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 84. Design Requirements for Off-Street Parking Driveways and turnarounds providing access to parking areas shall conform to the following provisions:

- 1) A driveway for a single or two family dwelling shall have a minimum width of ten feet.
- 2) Except for a single or two family dwelling, groups of more than three parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter the street in a forward manner.

- 3) Except for a single or two family dwelling, more than three parking spaces shall be served by a driveway designed and constructed to facilitate the flow of traffic on and off the site, with due regard to pedestrian and vehicle safety, and shall be clearly and permanently marked and defined. In no case shall two-way and one-way driveways be less than 20 feet and 12 feet respectively.
- 4) Driveways, aisles, turnaround areas and ramps shall have minimum vertical clearance of 12 feet for their entire length and width but such clearance may be reduced in parking structures.
- 5) Service drives to public streets shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points 20 feet from their intersection. No obstruction over 24 inches in height that has a cross section over 12 inches shall be permitted in such area.
- 6) The following off-street parking development and maintenance shall apply in all cases, except single and two family dwellings:
 - a) Parking areas, aisles and turnarounds shall be paved with concrete, asphaltic or comparable surfacing, constructed to city standards for off-street vehicle areas.
 - b) Parking areas, aisles and turnarounds shall have provisions made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public right-of-ways, and abutting private property.
 - c) Approaches shall be paved with concrete surfacing constructed to city standards. In the event that a street is not paved, the approach may be maintained to the same standard as the street until the street is paved.
 - d) Spaces shall be permanently and clearly marked.
 - e) Wheel stops and bumper guards shall be provided where appropriate for spaces abutting a property line or building, and no vehicle shall overhang a public right-of-way or other property line.
 - f) Where parking abuts a public right-of-way, a wall or screen planting shall be provided sufficient to screen the parking facilities but without causing encroachment into vision clearance areas. Except in residential areas, where a parking facility or driveway is serving other than a one or two family dwelling and is located adjacent to residential, agricultural or institutional uses, a site obscuring fence, wall or evergreen hedge shall be provided on the property line. Such screening shall be maintained in good condition and protected from being damaged by vehicles using the parking area.
 - g) Except for a residential development which has landscaped yards, parking

facilities shall include landscaping to cover not less than 7% of the area devoted to parking facilities. The landscaping shall be uniformly distributed throughout the parking area and may consist of trees, shrubs, ground cover or related material.

- h) Artificial lighting which may be provided shall be deflected so as not to shine directly into adjoining dwellings or other types of living units and so as not to create a hazard to the public use of a street.

(Section 84 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 85. Loading Facilities

- 1) The minimum area required for commercial and industrial loading spaces is as follows:
 - a) 250 square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
 - b) 500 square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
 - c) 750 square feet for buildings in excess of 50,000 square feet of gross floor area.
- 2) The required loading area shall not be less than 10 feet in width by 25 feet in length and shall have an unobstructed height of 14 feet.
- 3) If possible, required loading areas shall be screened from public view from public streets and adjacent properties.
- 4) Required loading facilities shall be installed prior to final building inspection and shall be permanently maintained as a condition of use.
- 5) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located at the site of a school having a capacity greater than 25 students.

(Section 85 amended by Ordinance No. 1613, passed August 19, 1980.)

SUPPLEMENTARY PROVISIONS

Section 86. Zone Boundaries Unless otherwise specified, zone boundaries are lot lines or the center line of streets, alleys, railroad right-of-way, or such lines extended.

Section 87. General Provisions Regarding Accessory Uses Accessory uses shall comply with all requirements for the principal use except where specifically modified by this ordinance and shall comply with the following limitations:

- 1) Fences, hedges and walls located within front yards shall not exceed a height of three and one-half feet above ground level for a distance of twenty feet from the sidewalk or, if there is no sidewalk, the curb line, but if there is no sidewalk or curb, then the edge of the improved portion of the street. (Subsection 1 amended by Ordinance No. 1842, October 24, 1995.)

- 2) A greenhouse or hothouse may be maintained accessory to a dwelling.
- 3) A guest house may be maintained accessory to a dwelling only if there are no cooking facilities in the guest house.
- 4) In a residential zone a side yard may be reduced to two feet for an accessory structure erected more than 65 feet from a street other than an alley provided the structure is detached from other buildings by five feet or more and does not exceed a height of one story nor an area of 450 square feet.

Section 88. Projections from Buildings Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than 18 inches into a required yard.

Section 89. Maintenance of Minimum Ordinance Requirements No lot area, yard, or other open space, or required off-street parking or loading areas existing on or after the effective date of this ordinance shall be reduced in area, dimension, or size below the minimum required by this ordinance, nor shall any lot area, yard, or other open space on off-street parking or loading area which is required by this ordinance for one use be used as the lot area, yard, or other open space or off-street parking or loading area requirement for any other use, except as provided in Section 81, Subsection (4).

Section 90. General Exception to Lot Size Requirements If, at the time this ordinance is adopted, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the zone subject to the other requirements of the zone, except that residential use shall be limited to a single-family dwelling.

Section 91. Exceptions to Yard Requirements

- 1) In the case of dwellings, the following exception to the front yard requirement shall apply in any zone:
 - a) If there are dwellings on both abutting lots with front yards of less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth $\frac{1}{2}$ way between the depth of the abutting lot and the required front yard depth.
- 2) To afford better light, air, and vision on more heavily traveled streets and on streets of substandard width; to protect arterial streets; and to permit the eventual widening of streets, every yard abutting a portion of a street hereinafter named

shall be increased over the required yard dimension specified in the zone by the number of feet set forth below in the right-hand column. Unless otherwise described, the distance set forth shall be measured from the center line and at right angles to the center line of the street as constructed and improved with a hard surface pavement, and where not paved, then the actual center line of the street.

(identify street) _____ feet

Section 92. General Exception to Building Height Limitations The following types of structures or structural parts are not subject to the building height limitations of this ordinance:

Chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, elevator shafts, and other similar projections.

Section 93. Access All lots shall abut a street other than an alley for a width of at least 25 feet.

Section 94. Vision Clearance Areas Vision clearance areas shall be established at intersections as follows:

- 1) In a residential zone the distance determining the size of a vision clearance area shall be 30 feet.
- 2) In all other zones except a C-G zone the distance determining the size of a vision clearance area shall be 15 feet, except that when the angle of intersection between streets is less than 30 degrees the distance shall be 25 feet.

Section 95. Zoning of Annexed Areas Zoning procedures shall be included as a part of proceedings to annex territory to the City. A public hearing shall be held before the City Council to consider a proposal to place annexed territory within a use zone provided in this ordinance. The City Council may combine in one hearing the question of the annexation of territory and the zoning of such territory. Before a decision has been made by the City Council concerning the zoning of annexed territory, the Planning Commission of the City shall review the planning and zoning for such territory and make a report to the Council containing the findings of fact.

(Section 95 previously numbered 88 amended by Ordinance No. 1613, passed August 19, 1980.)

NONCONFORMING USES AND STRUCTURES

Section 96. Continuation of Nonconforming Use or Structure Subject to the provisions of Section 97 to 102, a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time this ordinance is adopted shall not be considered an extension of a nonconforming use.

Section 97. Nonconforming Structure A structure conforming with respect to use but nonconforming with respect to height, setback, coverage or access may be altered or extended if the alteration or extension does not deviate further from the standards of this ordinance.

(Section 97 as amended by Ordinance No. 1690, passed August 28, 1984.)

Section 98. Discontinuance of a Nonconforming Use

- 1) If a nonconforming use involving a structure is discontinued from use for a period of one year, a further use of the property shall be for a conforming use.
- 2) If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use.

Section 99. Termination of Certain Nonconforming Uses A nonconforming use not involving a structure or one involving a structure having an assessed value of less than \$200 shall be discontinued within two years from the date this ordinance is adopted.

Section 100. Change of a Nonconforming Use If a nonconforming use is replaced by another use, the new use shall conform to this ordinance and shall not subsequently be replaced by a nonconforming use.

Section 101. Destruction of a Nonconforming Use If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80% of the fair market value as indicated by the records of the county assessor, a future structure or use shall conform to this ordinance.

Section 102. Completion of Structure Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction work has commenced prior to the adoption of this ordinance, except that if the building is nonconforming or is intended for a nonconforming use it shall be completed and in use within two years from the time the building permit is issued.

Alterations or Extensions within Five Years: Whenever a use has become nonconforming through the adoption of this Zoning Ordinance, then the Planning Commission may permit as a conditional use the alteration or extension of such use in instances where the application for the conditional use is filed with the City Recorder within five years from the effective date of this Zoning Ordinance, which was March 30, 1962. (This paragraph was added by Ordinance No. 1344, passed December 27, 1966.)

Section 103. Temporary Nonconforming Uses Permits for temporary nonconforming uses of property may be granted by the City Council under the following procedures, terms, conditions and limitations:

- 1) Temporary nonconforming uses shall be subject to the following conditions and limitations:
 - a) No temporary nonconforming use shall be permitted for a period in excess of 120 days.
 - b) No temporary use permit shall be granted unless it is determined that the

proposed use will not adversely affect property within the neighborhood. For purposes of this section, "neighborhood" is defined as property within 300 feet of the proposed use.

- c) Temporary use permits shall be made subject to such conditions and limitations as will protect the public health and safety.
 - d) If a temporary nonconforming use cannot be so limited or conditioned as to make it safe, or if such use would involve a violation of any safety or building code, or other ordinance of the City, or law of the United States or the State of Oregon, then a permit for such use shall be denied.
- 2) Applications for a temporary nonconforming use permit shall be made to the City Administrator and shall contain the names and addresses of the applicant and the owners and possessors of the property involved, the zone within which such property is situated, a description of the use proposed for such property, the dates or times proposed for such use, and any proposals for handling traffic, parking, public safety and protection of adjoining properties from any adverse affects from such use.
 - 2) At a meeting held not later than 45 days after the filing of such application the Planning Commission shall hear and consider such application and make its recommendation to the City Council concerning whether or not such application should be granted, together with any suggested terms, conditions and limitations for the permit.
 - 3) In the event that the proposed use is to be for a period longer than 3 days, then the application shall be accompanied by a fee of \$25, and a hearing shall be held by the Planning Commission with the same notice as is provided for a variance under the terms of this ordinance.
 - 4) After receiving a recommendation from the Planning Commission, the Council may grant or deny a permit for a temporary nonconforming use, and may make any permit subject to such conditions, limitations and terms as may be necessary or convenient for the protection of the public health, safety and welfare.

(Section 103 added by Ordinance No. 1474, passed February 12, 1974.)

VARIANCES

Section 104. Authorization to Grant or Deny Variances The hearings officer or Planning Commission may authorize variances from the requirements of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this ordinance would cause an undue or unnecessary hardship; except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance, the City may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this ordinance.

(Section 104 previously numbered 96 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 105. Conditions for Granting a Variance No variance shall be granted unless it can be shown that all of the following conditions exist:

- 1) Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the

applicant has no control.

- 2) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.
- 3) The authorization of the variance will not be materially detrimental to the purposes of this ordinance, be injurious to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city development plan or policy.
- 4) The variance requested is the minimum variance which will alleviate the hardship.

Section 106. Variance Procedure The procedures to be followed in applying for and acting on a variance shall be substantially the same as those provided in Sections 70 to 75 of this ordinance for the case of a conditional use.

AMENDMENT PROCEDURES

Section 107. Zone Changes An amendment to the zoning map may be initiated by the City Council, the Planning Commission, or by application of a property owner or his authorized agent. The procedures to be followed in applying for an amendment to the zoning map shall be substantially the same as those provided in applying for and acting on a conditional use permit.

An amendment to the zoning map requires notification to DLCD as outlined in Section 108 of the North Bend Zoning Ordinance.

(Section 107 as amended by ordinance 1877, passed June 8, 1999; and previously numbered 99 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 108. Plan and Text Amendment, Annexations and Vacations Proposals for amendment of the Comprehensive Plan and changes in the text of the Zoning Ordinance may be initiated by the City Council, the Planning Commission, or by application from a property owner or his authorized agent. Final action on amendments to the Comprehensive Plan, the text of the zoning Ordinance, annexations and vacations shall be taken after public hearings before the City Council and after receiving a report containing findings of the Planning Commission. All applications and all proposals initiated by the Council and Planning Commission shall be referred to the Planning Commission which shall make a

report of its findings to the Council within forty-five days of such referral.

(Section 108 previously numbered 100 amended by Ordinance No. 1613, passed August 19, 1980.)

The following DLCD notification requirements apply to all proposals to amend a comprehensive plan or land use regulation or to adopt a new land use regulation:

- 1) A proposal for an amendment shall be forwarded to the director of the Department of Land Conservation and Development (DLCD) at least 45 days before the final hearing on adoption.
- 2) The proposal forwarded to DLCD. shall indicate the date of the final hearing, and shall be accompanied by appropriate forms provided by DLCD, a map on 8 ½ X 11 paper (if possible) showing the area to be changed, and the existing and proposed designations, along with any supplemental information necessary to inform the director as to the effect of the proposal. The information submitted should explain the relationship of the proposal to the acknowledged plan and the goals, where applicable. Where a goal exception is proposed, the language of the exception should be included.
- 3) When the North Bend City Planner determines that the Statewide Planning Goals do not apply to the proposed amendment, notice under this subsection 1) of this section is not required.
- 4) The City of North Bend may submit a proposed amendment with less than 45 days' notice if the City has determined that there are emergency circumstances requiring expedited review.
- 5) All adopted amendments shall be submitted to DLCD and to persons who participated in the proceedings after adoption as set forth in ORS 197.615, OAR 660-018-0050, and this section.
- 6) Amendments and findings to support the adoption of these amendments shall be submitted to the director of DLCD. within five working days after the final decision, and shall be accompanied by appropriate forms provided by DLCD. The City shall notify DLCD. of withdrawals or denials of proposals previously sent to DLCD. under this section, except that adopted amendments which are part of periodic review shall be submitted within 20 days after the final decision as provided in ORS 197.641 and OAR 660-019-0070. The date of the "Final Decision" as described in this rule shall be the date on which the City of North Bend takes final action, and includes the adoption of all supplementary findings and data. In addition, the date of final action shall be the day following exhaustion of all appeal rights before the City of North Bend.
- 7) The City of North Bend shall indicate in its transmittal which provisions of OAR 660-018-0022 are applicable where the adopted amendment was not submitted for review 45 days prior to the final hearing on adoption.

- 8) Where amendments, including supplementary materials, exceed 100 pages, a summary of the amendment briefly describing its purpose and requirements shall be submitted to DLCD.
- 9) If amendments which are adopted by the City are substantially changed, from the original proposal, the City shall specify in the notice to DLCD the changes that have been made.

(Section 108 amended by Ordinance 1876, passed June 8, 1999.)

Section 109. Application and Fees An application by a property owner for amendment of the Comprehensive Plan or the text of the Zoning Ordinance shall be filed with the City Recorder. At the time the application is filed, the City Recorder shall estimate the total fees, costs and expenses to the City of North Bend for publishing and mailing notices of hearing, for the conducting of such hearing and the making of any record of the proceedings. Before any notice is published or mailed, the applicant shall deposit with the City Recorder the total amount of the estimated fees, costs and expenses, and said amount shall be held by the City Recorder until the actual fees, costs and expenses are determined. In the event that the amount deposited is in excess of the actual fees, costs and expenses, then the City Recorder shall return to the applicant such excess; but if said actual costs are in excess of the amount deposited then the City Recorder shall notify the applicant and require payment to the City of such excess. When the entire amount of fees, costs and expenses have been ascertained and collected the amount thereof shall be paid into the City Treasury.

(Section 109 previously numbered 101 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 110. Public Hearing Before final action is taken on a proposed amendment to the Comprehensive Plan, the text of the Zoning Ordinance, an annexation or a vacation, the City Council shall hold a public hearing. Procedures for holding hearings on vacations and annexations shall be as provided in the laws of the State of Oregon relating to such procedures, but in any cases where no such laws are applicable, then the hearing shall be held under the procedures provided in this section. Notice and procedures for holding public hearings by the City Council shall be as follows:

- 1) **Notice of Hearing** Notice of all public hearings before the City Council shall be given by at least two publications in a newspaper of general circulation in the City which shall be one week apart and the last notice of the hearing shall be published not later than five days before the hearing.
- 2) **Recess of Hearing** The City Council may recess a hearing for the purpose of obtaining additional information or providing additional notice to interested persons. Upon recessing the hearing the Council shall announce the time and date when the hearing will be resumed.

(Section 110 previously numbered 102 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 111. Record of Hearings A written or voice recorded record shall be taken of all public hearings held under the provisions of this ordinance. Such record shall be kept by the City Recorder until the time has expired for initiating all reviews and appeals and during the time that any review or appeal is pending. A written record need not be verbatim but it should include the name and residence of all witnesses, the facts presented by such witnesses and a reference to all other evidence presented.

(Section 111 added by Ordinance No. 1613, passed August 19, 1980.)

ADMINISTRATION, ENFORCEMENT AND INTERPRETATION

Section 112. Enforcement The Planning Director, or in the absence of a Planning Director, the City Administrator shall have the power and duty to enforce the provisions of this ordinance; and an appeal from a ruling by the Planning Director or City Administrator shall be made to the Planning Commission.

(Section 112 previously numbered 103 amended by Ordinance No. 1613, passed August 19, 1980.)

Section 113. Appeal Appeals from decisions of the hearings officer or Planning Commission to the City Council shall be taken under the following procedures:

- 1) Notice of appeal must be filed with the City Recorder within 10 calendar days of the date that the decision is filed with the City Recorder and mailed or delivered to the parties; and if no appeal is taken within that time, then the decision of the hearings officer or Planning Commission shall be final and conclusive.
- 2) The notice of appeal shall raise all issues relied on with sufficient specificity as to afford the City Council and other parties an adequate opportunity to respond to and resolve each issue.
- 3) Notice of the hearing before the City Council on appeal shall be provided by mail to all parties who appeared in the proceeding before the hearings officer or Planning Commission and all property owners referred to in Section 73 of this ordinance at least 20 days before the date of the hearing. The notice shall

contain the descriptions of all issues raised by the appellant in the notice of appeal, the other applicable information from the notice provided for in Section 73 of this ordinance, and the date, time and location of the hearing; and it shall state that a failure to raise an issue in person or by letter precludes appeal to the Land Use Board of Appeals on that issue, and that failure to specify to which criterion the comment is directed precludes appeal based on that criterion.

- 4) All documents or evidence relied on by the applicant shall be submitted to the City and made available to the public at the time notice is provided; and any staff report to be used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such continuance will not be subject to the limitations of ORS 215.428 or 227.178.
- 5) At the commencement of the hearing of appeal before the City Council, a statement shall be made describing the applicable substantive criteria and stating that testimony and evidence must be directed toward the criteria described, and that failure to address a criterion precludes appeal based on that criterion.
- 6) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 215.428 or 227.178.
- 7) When a record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
- 8) The failure of the property owner to receive notice as provided in this ordinance shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.
- 9) The decision of the Council is final when it is filed with the City Recorder and mailed to the parties.

(Section 113 amended by Ordinance No. 1757, passed on March 13, 1990.)

Section 114. Forms of Petitions, Applications, and Appeals All petitions, applications and appeals provided in this ordinance shall be made on forms which comply with the provisions of this ordinance and with applicable laws of the State of Oregon. All applications for building permits shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure or part thereof; the number of families to be accommodated, if any; and such other information as is needed to determine conformance

with this ordinance and with the building code.

(Section 114 amended by Ordinance No. 1757, passed on March 13, 1990.)

Section 115. Time Limit on a Permit for a Conditional Use or a Variance Authorization of a conditional use or variance shall be void after six months unless a building permit has been issued and substantial construction has taken place. However, the City Council may extend authorization for an additional six months on request.

Section 116. Interpretation Where the conditions imposed by any provision of this ordinance are less restrictive than comparable conditions imposed by any other provisions of this ordinance or of any other ordinance, resolution or regulation, the provisions which are more restrictive shall govern.

Section 117. Severability The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 118. Repeal of Ordinance No. 819 and Subsequent Amendments Ordinance No. 819 and all amendments thereto are hereby repealed.

All conditions imposed upon land previously rezoned for neighborhood commercial uses under Ordinance No. 1169 of the City of North Bend, shall remain in full force and effect after the enactment of this ordinance except that the time limitations for commencing and completing construction upon land described in the Idaho Addition shall be extended one additional year; and in the event that such conditions shall not be fulfilled according to the terms of Ordinance No. 1169, then the land shall revert to residential uses and the land described in the Idaho Addition, Coos County, Oregon, shall be in the R-6 zone and the land described in Coos Bay Plat "C", Coos County, Oregon, shall be in the R-7 zone under the terms of this ordinance.

A temporary use granted under the terms of Ordinance No. 819 shall be continued under this ordinance on the same conditions imposed by a temporary permit of the Council and shall be terminated at the time specified therein.

Section 119. Penalty Violation of, or failure to comply with, any provision of this ordinance is punishable, upon conviction, by a fine not to exceed \$300.00; and each day that such violation shall continue and persist, after due notice thereof, shall constitute a separate and distinct violation of this ordinance.

(Section 119 amended by Ordinance No. 1386, passed September 23, 1969.)

Section 120. Limitation and Consolidation of Proceedings Whenever an application is made for a permit provided in this ordinance or any related ordinance of the City of North Bend which is required for a development project, then the applicant may elect to have any and all permits from the City processed at one time, and procedures may be consolidated as required or permitted by Oregon Law and city ordinances. All applications or combinations of

applications shall be processed and final action taken by the City, including appeals provided in city ordinances, within 120 days after the applications are deemed complete.

(Section 120 added by Ordinance No. 1757, passed March 13, 1990.)

Section 121. Wetland notification procedures The city shall provide notice to the Division of State Lands, the applicant and the owner of record, within five working days of the acceptance of any complete application for any of the following activities that are wholly or partially within areas identified as wetlands on the State-wide Wetlands inventory:

- a) Subdivisions
- b) Building Permits for new structures
- c) Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or developments in floodplains and floodways
- d) Conditional use permits and variances that involve physical alterations to the land or construction of new structures
- e) Planned unit development approvals

The notification provisions set forth in this section do not apply if a permit from the Division of State Lands has been issued for the proposed activity.

The City may approve an activity described in this section only when a notice statement has been received from the Division of State Lands indicating one of the following:

- a) Issuance of a required permit under ORS 196.600 to 196.905 by the Division of State Lands prior to any physical alteration within the wetlands
- b) Notice from the Division of State Lands that no permit is required
- c) Notice from the Division of State Lands that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted

If the Division of State lands fails to respond to any notice provided within 30 days of notice, the city approval may be issued with written notice to the applicant and owner of record that the proposed action may require state or federal permits.

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The City may issue local approval for parcels identified as, or including, wetlands on the State-wide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the Division of State lands with a copy of the notification.

Notice of activities authorized within an approved wetland conservation plan shall be provided to the division within five days following local approval.

Failure of the City to provide notice as required by this section will not invalidate City approval.

(Section 121 added by ordinance 1878 passed May 25, 1999.)

Ordinance No 1192 passed by the Council of the City of North Bend February 27, 1962.