

## CHAPTER 155: ZONING

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### ***General Provisions***

## **§ 155.001 SHORT TITLE**

This chapter may be cited as the City of Merrill Zoning Chapter. The zoning map of the city is on file in city hall and available for inspection during regular city business hours.  
(Ord. 231, Passed 2-12-1980)

## **Zoning**

### **§ 155.002 SCOPE**

No building or structure or land within the boundaries of the city shall hereafter be used and no building or part thereof or any structure or part thereof shall be reacted, moved, or altered unless in conformity with the regulations herein specified for the district or zone in which it is located, except as otherwise provided herein. No permit for the construction or alteration of any building or structure shall be issued unless the plans, specifications, and intended use of the building or structure conform in all respects with the provisions of this chapter.

*(Ord. 231, passed 2-12-1980)* Penalty, see § 10.99

### **§ 155.003 EXISTING USES.**

When a property or an existing building at the time of passage of this chapter has a use that was legal prior to passage of this chapter, it may continue, be sold, and expanded, within the provisions of this chapter, even though it be not in conformity with the zoning regulations.

### **§ 155.004 NONCONFORMING LOTS OF RECORD**

If a lot or the aggregate of contiguous lots held in common ownership, as recorded in the Office of the County Clerk at the time of the adoption of this chapter, has an area or dimension which does not meet the lot size requirements of the zone in which property is located, the holdings may be occupied by a use permitted in the zone project subject to the other requirements of the zone.

*(Ord. 231, passed 2-12-1980)*

### **§ 155.005 APPLICABLE REGULATIONS; COMPREHENSIVE PLAN.**

Zoning decisions shall be in compliance with applicable local, state and federal regulations and the city Comprehensive Plan.

*(Ord. 231, passed 2-12-1980)*

### **§ 155.006 DEFINITIONS.**

(A) Interpretations. As used in this chapter, the masculine includes the feminine and neuter and the singular includes the plural.

(B) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

## **Merrill – Land Usage**

**ACCESSORY STRUCTURE OR USE.** A structure or use incidental and subordinate to the main use of the property and located on the same lot with the main use.

**AGRICULTURE.** See **FARM USE**

**BUILDING.** A structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind.

**CITY.** The City Council, city Planning Commission, or authorized designate of either body.

**COMPREHENSIVE PLAN or PLAN.** Maps and written goals and policies related to land use, transportation, parks, housing, urbanization, and the like, which have been adopted as elements of the city Comprehensive Plan.

**DWELLING, DUPLEX or DWELLING, TWO-FAMILY.** A detached building containing two dwelling units.

**DWELLING, MULTI-FAMILY.** A building containing three or more dwelling units.

**DWELLING UNIT.** One or more rooms designated for occupancy by one family and not having more than one cooking facility.

**FAMILY.** An individual, or two or more persons related by blood, marriage, legal adoption, or legal guardianship, living together as one housekeeping unit using one kitchen and providing meals or lodging to not more than two additional persons, excluding servants, or a group of not more than five unrelated persons living together as one housekeeping unit using one kitchen.

**FARM USE.** The utilization of land for the purpose of raising, harvesting, and selling crops or by feeding, breeding, management, and sale of or the produce of livestock, poultry, fur-bearing animals, honeybees, or for dairying and the sale of dairy products, or for any other agricultural or horticultural use, animal husbandry, timber propagation or harvest, or any combination thereof, including the preparation or processing and storage of products raised on that land.

**FENCE, SIGHT- OBSCURING.** A fence or planting arranged in such a way as to obscure vision.

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**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 elevation nearest the center of the wall.

**HEIGHT OF BUILDING.** The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or the highest point of other types of roofs.

**HOME OCCUPATION.** A lawful accessory activity commonly carried on within a dwelling, primarily by members of the family occupying the dwelling.

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

**LIVESTOCK FEEDING YARD.** An enclosure designated or used for the purpose of the concentrated feeding or fattening of livestock for marketing, other than winter feeding.

**LIVESTOCK SALES YARD.** An enclosure or structure designated or used for holding livestock for purposes of sale or transfer by auction, consignment, or other means.

**LOT.** A parcel or tract or contiguous parcels or tracts under the same ownership at the time of adoption of this chapter.

**LOTLINE, FRONT.** 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.

**LOT LINE, REAR.** The lot line which is opposite and the most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

**LOT LINE, SIDE.** Any lot line not a front or rear lot line.

**LOT WIDTH.** The average horizontal distance between the side lot line, ordinarily measured parallel to the front lot line.

**MOBILE HOME.** A movable structure or trailer, so constructed and designed as to permit permanent occupancy for sleeping or living purposes.

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**MOBILE HOME PARK.** A lot providing water and electrical hookups for two or more mobile homes occupied for living or sleeping purposes, regardless of whether a charge is made for the accommodation.

**NONCONFORMING STRUCTURE OR USE.** A lawful structure or use which exists at the time this chapter or any amendment thereto becomes effective, and which does not conform to the requirements of the zone in which it is located.

**SIGN.** An identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land and which directs attention to product place, activity, person, institution, or business.

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

**TRAILER.** Either mobile home or travel trailer.

**TRAVEL TRAILER or MOTOR HOME.** A portable building or vehicle, originally designed or presently constructed to be used as a temporary dwelling or lodging place and to be readily moveable from place to place over streets.

**TRAVEL TRAILER PARK.** A lot upon which two or more travel trailers, motor homes, or similar vehicles or devices are located (other than approved as a temporary use), regardless of whether a charge is made for the accommodations.

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

**WRECKING YARD.** Any establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts, iron steel, or other old or scrap ferrous or nonferrous material, metal, or nonmetal materials; and the term includes automobile wrecking yards, garbage dumps, and scrap metal processing facilities.

**YARD.** An open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this chapter.

**YARD, FRONT.** An open space between side lot lines and measured horizontally from the front lot line at right angles to the front lot line to the nearest point of a building.

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**YARD, REAR.** An open space between side lot lines and measured horizontally at right angles from the rear lot line to the nearest point of the main building.

**YARD, SIDE.** A yard between a building and the side lot line measured horizontally at right angles from the rear lot line to the side lot line to the nearest point of a building.

**YARD, STREET SIDE.** A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building.

*(Ord. 231, passed 2-12-1980)*

### **CLASSIFICATION OF ZONES; USES AND STANDARDS**

#### **§ 155.020 ZONE BOUNDARIES**

Unless otherwise specified, zone boundaries are section, subdivision, or lot lines, railroad or street rights-of-way or the center lines thereof, and in some cases, lot lines or other definable boundaries. These boundaries are indicated on the zoning map of the city and become a part of the chapter.

*(Ord. 231, passed 2-12-1980)*

#### **§ 155.021 ZONE CLASSIFICATIONS.**

(A) The city may be divided into the following zones.

<b><i>Zone</i></b>	<b><i>Designation</i></b>	<b><i>Old Zone Number</i></b>
Commercial	C	2
Industrial	I	3
Open Space/Public Facilities		
Residential	R	1

(B) A certified copy of the adopted zoning map and any subsequent amendment thereof will be maintained in the office of the City Recorder.

*(Ord. 231, passed 2-12-1980)*

#### **§ 155.022 RESIDENTIAL ZONE.**

(A) Purpose. The purpose of this zone is primarily to allow for residential uses and accessory uses.

## **Merrill—Land Usage**

(B) Permitted uses. In a residential zone, the following uses and their accessory uses may be permitted outright:

(1) Single-family residences;

(2) Utility facilities and substations;

(3) Agricultural Uses: Agricultural uses are those activities that raise, produce, or keep plants or animals. For the purpose of this code, typical household gardens are not included in this definition and are allowed in all zones.

1. Processing of animal or plant products, including milk, and feed lots are not allowed;

2. Plant nurseries that are oriented to retail sales are not allowed;

3. Livestock other than domestic pets, provided that:

(a) At least 10,000 square feet of area is provided for these animals.

(b) Each cow, horse, or pig, five sheep or goats, 24 chickens or rabbits (or any combination thereof), will be provided 10,000 square feet of area;

(c) One rooster per flock for children participating in FFA or 4-H;

(d) No animal shelter or feeding area will be located closer than 40 feet from an abutting area residence or commercial use;

(e) A sufficient barrier is erected and/or maintained to contain the livestock within the confines of the property lawfully possessed by the keeper of these animals; and

(f) The animals, chickens, and fowl shall be properly caged or housed, properly fed and cared for, and the area is maintained in a safe and sanitary manner. All animal or poultry food shall be stored in rodent-proof containers;

(g) Chickens, fowl and/or rabbits must be over the age of six months.

4. The total number of bee colonies allowed on a lot shall not exceed one colony (any receptacle or container made or prepared for use of bees) per 1,000 square feet of lot area;

5. Animal runs, barns, and pens shall be located at least 70 feet from the front



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property line and at least 50 feet from any adjacent property.  
(Ord. No. 2030, passed 2-09-2021)

- (4) Mobile homes meeting the requirements of Chapter 153.  
(Ord. No. 10 April 2018, Passed 4-10-2018)

(C) *Conditional uses.* In a residential zone, the following uses and their accessory uses may be permitted according to the provisions of § 155.026 *et seq.* of this code and upon conditional use approval:

- (1) Multiple dwellings and duplexes;
- (2) Schools, churches, libraries, and other community buildings
- (3) Parks and playgrounds;
- (4) Mobile home meeting the requirements of Chapter 153.  
(Ord. 10 April 2018, Passed 4-10-2018)
- (5) Mobile home park;
- (6) Home occupation;
- (7) Rest, retirement, or nursing home;
- (8) Other public uses or facilities; and
- (9) Planned developments.

(D) *Standards.* The following minimum standards shall apply to all developments in a residential zone;

- (1) Front yard setbacks: 20 feet;
- (2) Side yard setbacks:
  - (a) Seven feet on typical lots; and
  - (b) Twenty feet on street side of corner lots.

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(3) Rear yard setback: 15 feet;

(4) Accessory building setbacks;

(a) Three foot from lot lines for detached buildings; and

(b) Five feet from other buildings, if detached

(5) Street center line setback:

(a) From Klamath Falls- Malin Highway center line: 75 feet;

(b) From any 80-foot street or road center line: 60 feet; and

(c) From any 60-foot street or road center line: 45 feet.

(6) Minimum parcel size shall be 7,000 square feet for single-family residences and an additional 3,000 square feet for an additional dwelling unit. A maximum of one accessory dwelling unit is allowed per lot.

*(Ord. No. 2020, passed 10-8-2019; Am Ord. No 2037, passed 5-11-2021)*

(7) Minimum lot dimensions shall be as follows:

(a) Average width: 70 feet; and

(b) Average depth: 100 feet.

(8) Maximum height: 25 feet; and

(9) Sign and Parking requirements as per §155.070 *et seq.* and 155.085 *et. seq.* of this code.

*(Ord. 231, passed 2-12-1980; Am. Ord. passed 2-8-1983) Penalty, see § 10.99*

### **§ 155.023 COMMERCIAL ZONE.**

(A) Purpose. The purpose of this zone is to generally provide for commercial uses.

(B) Permitted uses. In a commercial zone, the following uses and their accessory uses may be permitted outright;

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- (1) Multiple-family dwellings;
- (2) Retail, financial, real estate, or service commercial uses;
- (3) Grocery, hardware, building supplies;
- (4) Café, tavern, and similar eating and/or drinking establishments
- (5) Hotels, motels, boarding houses;
- (6) Rest, retirements, or nursing homes;
- (7) Clubs, lodges, and fraternal organization facilities; and
- (8) Theaters, museums, and art galleries.

(C) Conditional uses. In a commercial zone, the following uses and their accessory uses may be permitted according to the provisions of §§ 155.035 *et seq.* of this code and upon conditional use approval:

- (1) Trailer park;
- (2) Automobile or trailer sales and service;
- (3) Automobile or truck repair or body shop;
- (4) Farm equipment sales and service;
- (5) Feed, seed, grain, and farm supplies
- (6) Equipment rental;
- (7) Animal hospital;
- (8) Warehouse, storage, or freight terminal;
- (9) Wholesale operation;
- (10) Plant nursery;

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(11) Home occupation;

(12) Plumbing, heating, cabinet, or sheet metal shop

(13) Schools, churches, libraries, and other community building;

(14) Parks, playgrounds, utility facilities, and substations;

(15) Other public uses and facilities;

(16) Planned developments;

(17) Service stations and;

(18) Commercial uses not listed above and determined by the city to be compatible with other uses in the area.

(D) *Standards.* The following standards shall apply to all development in a commercial zone.

(1) Standards for residential development shall be same as standards in the residential zone.

(2) Standards for commercial development shall be same as standards in the residential zone except as follows;

(a) Setback requirements will only apply adjacent to a residential zone; and

(b) Off-street parking requirements will not be applicable to downtown uses fronting on the Malin-Klamath Falls Highway.

(Ord. 231, passed 2-12-1980; Am. Ord. 242, passed 2-8-1983) Penalty, see § 10.99

### **§ 155.024 INDUSTRIAL ZONE.**

(A) *Purpose.* The purpose of this zone is primarily to provide for industrial uses.

(B) *Permitted uses.* In an industrial zone, the following uses and their accessory uses may be permitted outright:

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- (1) Farm uses;
- (2) Automobile or trailer sales and services;
- (3) Automobile or truck repair or body shop;
- (4) Farm equipment sales;
- (5) Feed, seed, grain, and farm supplies;
- (6) Animal hospital or boarding kennel;
- (7) Warehouse, storage, or freight terminal;
- (8) Wholesale operation;
- (9) Plant nursery;
- (10) Service station;
- (11) Café or restaurant;
- (12) Plumbing, heating, cabinet, or sheet metal shop;
- (13) Other light manufacturing, fabricating, processing, repairing, or storage uses not specifically listed as conditional uses in this zone and which do not create undesirable noise, dust, odor, vibration, or traffic.
- (14) Spud cellars;
- (15) Bulk oil and farm chemical storage and equipment; and
- (16) Grain elevators.

(C) *Conditional uses.* In an industrial zone, the following uses and their accessory uses may be permitted according to the provisions of §§ 155.035 *et seq.* of this code and upon conditional use approval.

- (1) Industrial uses not listed as permitted above and not recognized as nuisances;

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(2) Aggregate, concrete, or asphalt processing plants;

(3) Lumber or wood products manufacturing;

(4) Livestock feeding yard or sales yard;

(5) Slaughterhouse;

(6) Wrecking yard or junk yard;

(7) Public or semi-public use;

(8) Tavern; and

(9) Planned development.

(D) *Standards*. The following standards shall apply to all development in an industrial zone:

(1) Standards for residential development shall be the same as standards in the residential zone;

(2) Setback requirements adjacent to a residential zone shall be the same as those required in that zone;

(3) Setback from center line of public street or road:

(a) For 80-foot street: 60-foot setback; and

(b) For 60-foot street: 50-foot setback.

(4) Sign and Parking requirements as per §§ 155.070 *et seq.* and 155.085 *et seq.* of this code.

(Ord. 231, passed 2-12-1980; and Am. Ord. 242, passed 2-8-1983) Penalty, see § 10.99

### **§ 155.025 OPEN SPACE/PUBLIC FACILITIES**

(A) *Uses*.

(1) Parks; and

(2) Public Facilities.

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(B) *Standards.*

(1) *Area requirements.* To be determined by the Planning Commission.

(2) *Height requirements.* Structures shall not exceed 35 feet.

(3) *Parking regulations.* To be determined by the Planning Commission.

(Ord. 242, passed 2-8-1983) Penalty, see § 10.99

### **CONDITIONAL USES; PERMITS, STANDARDS**

#### **§ 155.035 APPROVAL OR DENIAL; CITY AUTHORITY**

Conditional uses listed in this chapter may be permitted, enlarged, or altered upon authorization by the city, or may be denied if determined to be incompatible or unsuited for the location proposed. If denied, reasons for the denial shall be indicated. If approved, the city may attach conditions of approval as determined necessary to insure compatibility of the proposed use(s).

(Ord. 231, passed 2-12-1980)

#### **§ 155.036 APPLICATION PROCEDURES.**

Procedures for taking action on a conditional use application shall be as follows.

(A) A property owner may initiate a request for Planning Commission consideration of a conditional use request by filing an application with the City Recorder using forms prescribed pursuant to § 155.119 of this code.

(B) Before the Planning Commission may act on a conditional use application, it shall hold a public hearing thereon, following procedures as established in § 155.116 of this code.

(C) Within tendays after a decision has been made with reference to a conditional use application, the Planning Commission shall provide the applicant and the City Council with written notice of the decision of the Commission. This decision shall become final if not appealed to the Council or moved to be reviewed by the Council upon its own motion.

(Ord. 231, passed 2-12-1980)

#### **§ 155.037 PERMIT EXPIRATION; TRANSFER.**

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(A) Authorization of a conditional use shall be void after one year or such other time as the authorization may specify, unless substantial development or investment has taken place.

(B) Should the Planning Commission find that a conditional use is of a type, or to be located in an area, which warrants a time limit being placed on the use, it may allow the use for a specified period of time. Issuance of a conditional use permit shall confer no right to the applicant beyond the time period for which it is issued. Affirmative action by reapplication for conditional use shall be required by the permit holder to obtain any extension of time beyond that allowed by the original permit.

(C) Should the planning commission find it necessary that approval be valid on to the requestor, transfer of the permit may be specifically prohibited.

(D) If the conditions for conditional use permit approval are determined not fulfilled within a reasonable time, the Planning Commission may revoke a conditional use approval after giving notice to the affected permit holder.

*(Ord. 231, passed 2-12-1980)* Penalty, see § 10.99

### **§ 155.038 EVALUATION CRITERIA AND CONSIDERATIONS.**

(A) IN considering the suitability of conditional uses, Comprehensive Plan goals and policies shall be taken into account and recognized when applicable as criteria upon which to base decision. The goals and policies shall include the following Plan guidelines and related standards:

- (1) Each of the stated Plan goals;
- (2) Cumulative Plan policies as applicable;
- (3) Specific Plan recommendations;
- (4) Available of services and utilities; and
- (5) Specific standards and criteria as listed below.

(B) In addition to the above Plan and ordinance criteria, the city shall take the following considerations into account in considering a conditional use permit.



- (1) Surrounding area development and owner viewpoints;

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- (2) Availability of service and utilities; and

(3) Maintaining the stability of community physical, social, and economic characteristics.

*(Ord. 231, passed 2-12-1980; Am. Ord. 242, passed 2-8-1983; Am. Ord. 243, passed 6-7-1983)*

### **§ 155.039 GENERAL STANDARDS.**

(A) IN permitting a new conditional use or the alteration of an existing use, the Planning Commission may impose, in addition to those standards and requirements expressly specified in this chapter, additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding area residents, or the city as a whole. These conditions may include the following:

- (1) Increasing the required lot size of yard dimension;
- (2) Limiting the height of buildings;
- (3) Controlling the location and number of vehicle access points;
- (4) Increasing the street width;
- (5) Increasing the number of required off-street parking spaces;
- (6) Limiting the number, size, location, and lighting of signs;

(7) Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property; and

- (8) Designating sites for open space.

(B) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use, any change in the use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

### **§ 155.040 SPECIFIC STANDARDS; HOME OCCUPATION.**

The specific standards listed below, the standards of the zone in which the conditional use is located, and the general standards of this chapter, plus any additional conditions required by the Planning Commission, shall govern all conditional uses.

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(A) The home occupation shall be secondary to the main use of the property as a residence.

(B) The home occupation shall be limited to either an accessory structure or to not over 25% of the floor area of the main floor of a dwelling. If located within an accessory structure, the home occupation shall not utilize over 600 square feet of floor area.

(C) No structural alteration, including the provision of an additional entrance, shall be permitted to accommodate the home occupation except when otherwise required by law. The structural alteration shall not detract from the outward appearance of the property as a residential use.

(D) Not more than one person other than members of the immediate family residing in the dwelling is to be engaged in the home occupation.

(E) No window display and no sample commodities displayed outside the building shall be allowed. One unlighted sign not exceeding one and one-half square feet in area shall be permitted. The sign shall either be attached to the exterior of the building, placed in a window of the building, or, if detached from the building, shall not be located in a required front or street side yard. The sign shall identify only the home and occupation of the resident.

(F) Retail sales shall be limited to those commodities and materials used in conjunction with home occupation.

(G) No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or adjoining dwellings because of vibration, noise, smoke, odor, interference with radio or television reception, or other factors.

(H) No materials or commodities shall be delivered to or from the residence at a time, or which are of such bulk or quantity, as to create undesirable traffic or congestion.

(I) No parking of customer's vehicles in a manner or frequency so as to cause disturbance or inconvenience to nearby residents or so as to necessitate off-street parking shall be allowed.

(J) Hours of operation and associated activities of the home occupation shall not infringe upon the rights of the neighboring residents to enjoy the peaceful occupancy of their respective homes and neighborhoods.

**§ 155.041 TRAILER PARK STANDARDS.**

(A) *State requirements.* The trailer park must meet the standards of O.R.S. Chapter 446.

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(B) *Minimum dimensions.* Minimum dimensions shall be set forth in Appendix A of this chapter.

(C) *Road width.* Each access road connecting with a public street shall have a surface width of at least 30 feet and all other access roads shall have a surface width of at least 20 feet. All access roads and parking areas and walkways shall be surfaced to minimum city road standards and well drained. Walkways not less than three feet wide may be required to be provided from trailer spaces to community and service buildings. All access roads and walkways shall be well lighted.

(D) *Recreation area.* Developed recreation area shall be provided which contains a minimum of 2,500 square feet or 200 square feet per trailer space, whichever requirements is greater.

(E) *Landscaping.* All areas not used for trailer spaces, motor vehicle parking, traffic circulation, or service or community buildings shall be completely and permanently landscaped. The landscaping shall be maintained in good condition.

(F) *Fencing.* A permanent fence at least four feet in height shall be provided on each side of the trailer park and of design and material approved by the Planning Commission. (Ord. 231, passed 2-12-1980) Penalty, see § 10.99

**§ 155.042 PLANNED DEVELOPMENT PROCEDURES AND STANDARDS.**

(A) An applicant shall submit five copies of a preliminary plan to the Planning Commission for study at least 15 days prior to the meeting at which it will be considered. The preliminary plan shall include the following information:

- (1) Proposed land uses and, if applicable, building location and densities;
- (2) Proposed circulation patterns indicating access, type of street, and status of street ownership;
- (3) Proposed grading and drainage patterns;
- (4) Proposed open space and use;
- (5) Proposed method of water supply and sewage disposal

(6) Economic and supporting data to justify any proposed commercial and industrial elements in an area not so zoned; and

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(7) Relation of the proposed development to the surrounding area and to the Comprehensive Plan.

(B) In reviewing the plan, the Commission will need to determine:

(1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard regulation requirements;

(2) Resulting development will not be inconsistent with the Comprehensive Plan objectives.

(3) The area around the development can be planned in substantial harmony with the proposed plan;

(4) The developer's financial ability to complete the plan and that the plan can be completed within a reasonable period of time;

(5) Streets are adequate to handle anticipated traffic and the development will not overload streets outside the planned area; and

(C) In addition to the requirements of this section, the commission may attach conditions its finds necessary to carry out the purposes of this chapter and the Comprehensive plan.

(D) Construction in a planned development shall conform to the final approved plan. Any changes in or from the approved plan shall be submitted to the Commission for processing as an amendment.

*(Ord. 231, passed 2-12-1980)* Penalty, see § 10.99

### **§ 155.430 WRECKING YARD STANDARDS.**

(A) A wrecking yard shall be fully enclosed by a sight-obstructing fence, maintained in good condition, not less than six feet in height, and of a design approved by the Planning Commission.

(B) All automobiles, wrecked or otherwise, shall be kept inside the fenced area at all times, except those vehicles belonging to customers may be parked outside the fence while at the establishment on business.

(C) All sales, display, storage, repair, or other handling of products, merchandise, equipment, and other articles shall occur from within an enclosed building or from within the fenced area.

(Ord. 231 passed. 2-12-1980) Penalty, see § 10.99

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### ***SUPPLEMENTARY PROVISIONS***

#### **§ 155.055 GENERAL EXCEPTIONS TO STANDARDS.**

##### ***(A) Setbacks.***

(1) If there are buildings on abutting lots which are within 100 feet of the lot in question and the buildings have front yards of less than the required depth, the front yard of the lot in question need not to exceed the average depth of the front yards of the abutting lots.

(2) If there is a building on one abutting lot which is within 100 feet of the lot in question and this building has a front yard of less than the required depth for the zone, the front yard for the lot in question need not exceed a depth halfway between the depth of the front yard of the abutting lot and the required front yard depth.

(B) *Height.* Vertical projections such as chimneys, spires, domes, elevator shafts, housings, towers, aerials, flagpoles, and similar objects not used for human occupancy are not subject to the building height limitations of this chapter.

(C) *Projections.* Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimney, and flues shall not project more than 24 inches into a required yard.

(D) *Minimum area.* Not lot area, yard, or other open space existing on or after the effective date of this chapter shall be reduced below the minimum required for it by this chapter, and no lot area, yard, or other open space which is required by this chapter for one use shall be used as the required lot area, yard or other open space for another use.

(Ord. 231, passed 2-12-1980) Penalty, see § 10.99

#### **§ 155.056 SIMILAR USE.**

The Planning Commission may permit in a particular zone a use not listed in this chapter, provided the use is compatible to the uses permitted there by this chapter. However, this section does not authorize the inclusion in a zone where it is not listed, a use specifically listed in another zone, or which is of the same general type and is similar to a use specifically listed in another zone.

#### **§ 155.057 TEMPORARY USE.**

The Planning Commission may authorize a short-term temporary use for a specified period and attach conditions of approval as it determines necessary to assure compatibility with surrounding area uses. These uses may include temporary residence during construction of permitted uses, temporary sales or construction offices, and the like.  
(Ord. 231, passed 2-12-1980)

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### **§ 155.058 SINGLE-FAMILY DWELLING LOT USE.**

Only one permanent single-family dwelling shall be allowed on one parcel or lot.  
(Ord. 231, passed 2-12-1980) Penalty, see § 10.99

### **§ 155.059 VISION CLEARANCE AREA.**

(A) A clear-vision area shall be maintained on the corners of all property at the intersection of any two streets or a street and a railroad.

(B) A clear-vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance of 20 feet or, where the lot lines have rounded corners, the lot lines extended in a straight line to point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two sides.

(C) A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three- and one-half feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height eight feet above grade.  
(Ord. 231, passed 2-12-1980) Penalty, see § 10.99

### **§ 155.060 HISTORIC SITE OR STRUCTURE**

(A) Upon receiving a land use application involving an historic site or structure, as designated by the Comprehensive Plan, the Planning Commission shall review the application to determine its conformance with the historic preservation policies of the city. Further, if it is determined that the land use action will result in the demolition or extensive exterior modification of any historical building or demolition of structure on a designated historic site, the Planning Commission shall review the application, taking in account the following:

- (1) The state of repair of the building;
- (2) The reasonableness of the cost of restoration or repair;
- (3) The purpose of preserving the designated historical building and sites;

(4) The character of the neighborhood; and

(5) All other factors the Planning Commission feels are appropriate.

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(B) Following the Planning Commission review, the Planning Commission shall either approve or deny the permit for land use action.

*(Ord. 242, passed 2-8-1983)*

### **OFF-STREET PARKING AND LAODING**

#### **§ 155.070 GENERAL STANDARDS.**

(A) *Existing uses.* At the time a new structure is erected or enlarged or the use of an existing structure is changed, off-street parking space, loading areas, and access thereto shall be provided as set forth in this chapter unless greater requirements are otherwise established. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this chapter.

(B) *Uses not listed.* Requirements for types of buildings and uses not specifically listed herein shall be based upon requirements of comparable uses listed.

(C) *Multiple uses.* In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the requirements of the several uses computed separately.

(D) *Parking space usage.* Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

(E) *Parking area location restrictions.* Required off-street parking areas shall not be provided in the required front or street side yard areas in a residential zone.

(F) *Loading merchandise, materials, or supplies.* Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this chapter may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.

*(Ord. 231, passed 2-12-1980) Penalty, see § 10.99*

**§ 155.071 SPECIFIC SPACE REQUIREMENTS**

Specific space requirements shall be set forth in Appendix B of this chapter.  
(Ord. 231, passed 2-12-1980) Penalty, see § 10.99

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**SIGNS**

**§ 155.085 GENERAL STANDARDS.**

(A) No permanent sign shall be placed in or extended over a required side yard or street right-of-way or within ten feet of the front property line in a required front yard.

(B) There shall be no moving or flashing signs.

(C) Light from a sign shall be directed away from a residential use or zone and shall not be located so as to distract motorist.

(Ord. 231, passed 2-12-1980) Penalty, see § 10.99

**§ 155.086 RESIDENTIAL ZONE STANDARDS**

In residential zones, signs shall be limited to the following:

(A) A name plate or sign not exceeding one and one-half square feet in area for each dwelling.

(B) A temporary sign not exceeding 32 square feet in area pertaining to the lease, rental, or sale of the property or the construction of a structure thereon.

(C) A sign not exceeding 32 square feet advertising a subdivision or other development;

(D) A sign not exceeding 12 square feet in area identifying a ranch, farm, or other nonresidential use, including the sale of farm produce, church, or home occupation; and

(E) A sign not exceeding 12 square feet directing vehicular traffic to places of interest to the public, such as tourist accommodations and recreation sites, which would otherwise be difficult to find because the site is not visible from a highway. These signs shall be located within 300 feet of the interesting roadway which provides access from the highway to the place of interest.

(Ord. 231, passed 2-12-1980) Penalty, see § 10.99

**§ 155.087 COMMERCIAL AND INDUSTRIAL ZONE STANDARDS**



(A) The sign shall not exceed a total area of 200 square feet or one square foot every foot of lot frontage along streets other than alleys, whichever is less.

(B) The sign shall not exceed 35 feet in height measured from road level.

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(C) Display surfaces shall not be greater than 12 feet in height not 25 feet in width.  
(Ord. 231, passed 2-12-1980) Penalty, see § 10.99

### ***NONCONFORMING USES; VARIANCES***

#### **§ 155.100 NONCONFORMING USE; APPLICATION.**

The lawful use of any building, structure, or land at the time of adoption of this chapter may be continued or sold. Any alteration or replacement shall be in accord with the following provisions.

(Ord. 231, passed 2-12-1980) Penalty, see § 10.99

#### **§ 155.101 NONCONFORMING USE; ALTERATION.**

Alternation or completion of any nonconforming use or related structure may be permitted as follows:

(A) When necessary to reasonably continue the use;

(B) When necessary to comply with any lawful requirement for alteration in the use;

(C) When the extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this chapter;

(D) When a nonconforming structure, which conforms with respect to use, is altered or extended and that alteration or extension does not cause the structure to deviate further from the standards of this chapter;

(E) When construction has commenced prior to the adoption of this chapter, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within one year from the time of adoption of this chapter; or

(F) When a structure is determined to be suitable for only nonconforming use(s) and proposed new use(s) are determined to be no more detrimental to surrounding properties than the use to be replaced.

*(Ord. 231, passed 2-12-1980)*

**§ 155.102 NONCONFORMING USE; DISCONTINUANCE OR REPLACEMENT.**

(A) If a nonconforming use is discontinued for a period of one year or if a mobile home or travel trailer is removed from a site for one year, further use of the property shall conform to this chapter.

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(B) If a nonconforming use is replaced by another use, the new use shall conform to this chapter.

(C) Removal of a nonconforming mobile home and replacement thereof with a newer mobile home within one year shall not be considered a change or alteration of the use.

(D) Restoration or replacement of a nonconforming use may be permitted when that use is damaged or destroyed by fire or other casualty or natural hazard, provided that if the nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80% of its fair market value as indicated by the records of the County Assessor and it not returned to use and in actual operating condition within two years from the date of destruction, a future structure or use on the site shall conform to this chapter.

*(Ord. 231, passed 2-12-1980)* Penalty, see § 10.99

**§ 155.013 VARIANCE; AUTHORIZATION**

The Planning Commission may authorize variances from the requirements of this chapter where it can be shown that, owing to special and unusual circumstances related to a specific lot, strict application of this chapter would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission shall first hold a public hearing and may attach condition which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this chapter. Within ten days after the decision had been made with reference to a conditional use application, the Planning Commission shall provide the applicant and the City Council with written notice of the decision of the Commission. This decision shall become final if not appealed to the Council or moved to be reviewed by the Council upon its own motion.

*(Ord. 231, passed 2-12-1980)*

**§ 155.104 VARIANCE; CRITERIA**

A variance may be granted only in the event that all of the following circumstances exist;

(A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this chapter have had no control;

(B) The variances are necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;

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(C) The variance would not be materially detrimental to the purposes of this chapter or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of any city plan or policy;

(D) The variance requested is the minimum variance which would alleviate the hardship; and

(E) The hardship is not self-imposed, nor results from a violation of this chapter.  
(Ord. 231, passed 2-12-1980)

### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 155.155 AMENDMENTS; PROCEDURES**

(A) *Initiation.* An amendment to the text of this chapter or to an associated zoning map may be initiated by individual or collective property owner petition to the Council, direct property owner application, or by Council or Planning Commission action. Before the Council can act on an amendment, it must first receive a report and recommendation from the Planning Commission.

(B) *Procedure.*

(1) Both the Council and Planning Commission must hold a public hearing to consider the amendment.

(2) At such time as a zoning map amendment has been initiated, the Planning Commission shall determine the logical area to be considered to be included in the change and shall give public notice accordingly.

(3) The Planning Commission shall schedule the public hearing for its earliest practical meeting after the amendment is proposed and shall approve, disapprove, or modify the amendment and shall, within 20 days, submit a report and recommendation to the Council.

The Council shall hold its public hearing at the earliest practical time, meeting public notice requirements.

(C) *Comprehensive Plan compliance.* In considering an amendment to this chapter or the zoning map, the Planning Commission and Council shall determine the change to be in accord with Comprehensive Plan provisions applicable to the area. In making a zoning map amendment, in addition to being in compliance with the Plan, the city must also determine that one of the following conditions justifies the change:

(1) There has been a substantial change in the character of the area or other areas of the city since the zoning was adopted; or

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(2) The zoning adopted for the area is in error.  
(Ord. 231, passed 2-12-1980)

**§ 155.116 HEARINGS**

Public hearings held for the purpose of administering any section of this chapter shall be processed in the following manner.

(A) At the time application for any action requiring a public hearing is made other than for a zoning chapter amendment, the applicant shall submit names and addresses of all property owners within 300 feet of the property in question, according to the records of the County Assessor. Written notice of the request shall be mailed to all these owners at least ten days prior to the hearing.

(B) Public notice of each hearing shall be published at least once weekly in a newspaper of general circulation in the city during the two-week prior to the hearing.

(C) Public notices shall contain the time, location, and purpose of the hearing and describe the area to be affected by the proposal.

(D) Notice of hearings shall also be mailed at least ten days prior to the hearing, to country, state or federal agencies or other interests likely to be affected by the request.

(E) The Planning Commission or Council may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

(Ord. 231, passed 2-12-1980)

**§ 155.117 FINDINGS; BASIS.**

(A) Findings. All zoning chapter decisions (either approvals or denials), will be based upon “findings” which will be documented and made a matter of record. Findings will include the following:

(1) An identification of the Plan guidelines, criteria, and standards considered relevant in reaching the decision;

(2) The facts used as the basis of the decision; and

(3) The justification or rationale for the decision based upon the above guidelines, criteria, standards, and facts.

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(B) Basis of findings.

(1) The Comprehensive Plan (classification descriptions, policies, and findings or recommendations) and technical data documents, in addition to standards and criteria found in this chapter and facts presented in respective presentation and discussions, will provide bases for most findings.

(2) An applicant will be provided the opportunity to prepare and to present findings on his or her own behalf. These findings will be taken into account and, if determined valid and significant, may be incorporated as city findings regarding a particular decision.

(3) Findings may be based on physical, social, economic, environmental, or other considerations.

*(Ord. 231, passed 2-12-1980)*

### **§ 155.118 APPEALS**

(A) An action or ruling of the Planning Commission pursuant to this chapter may be reviews by the City Council within 30 days upon its own motion or appealed to the Council within 15 days of the decision. Written notice of the appeal will be filed with the City Recorder. The Council will hold a public hearing to consider the appeal.

(B) An action or ruling of the Council may be reviewed upon its own motion or may be appealed within 30 days of the decision to the Land Use Board of Appeals according to O.R.S. Ch. 197.

(C) An action or ruling of the Land Use Board of Appeals or the state Land Conservation and Development Commission may be appealed to the State Supreme Court.

*(Ord. 231, passed 2-12-1980)*

### **§ 155.119 REQUEST AND APPLICATION FORMS.**

Request and applications provided in this chapter shall be made on forms provided by the city or on a reasonable facsimile thereof. Requests shall be accomplished by plans, specifications, and other mapped or written information as may be appropriate in taking action on the matter.

*(Ord. 231, passed 2-12-1980)*

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### **§ 155.120 FEES**

(A) The following fees schedule has been established to cover the cost of processing various applications or requests. State fees are minimum fees; any additional cost will be paid by applicant.

(1) Zone map or chapter amendment: \$125.

(2) Appeal of Planning Commission: \$125.

(3) Conditional Use: \$75.

(4) Variance: \$75.

(5) Other actions requiring public hearings: \$75.

(B) If an individual or collective property owner petition for an amendment results in the city initiating the amendment (generally, recognizing an error in the chapter or zone map) no fee is required of the petitioner(s).

*(Ord. 231, passed 2-12-1980)*

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### **APPENDIX: OFF-STREET PARKING AND LOADING; SPACE REQUIREMENTS**

<b>Use</b>	<b>Parking Space Requirements</b>
<b>Bank, Office</b>	<b>One space for each 300 square feet of floor area</b>
<b>Bowling Alley</b>	<b>Five space for each alley</b>
<b>Church, club, or similar place of assembly</b>	<b>One space for each six seats or one for each 50 square feet of floor area used for assembly</b>
<b>Dance hall, skating rink, or similar commercial amusement enterprise</b>	<b>One space for each 100 square feet of floor area</b>
<b>Duplex or multi-family</b>	<b>Two space for each dwelling unit</b>
<b>Dwelling</b>	<b>Two spaces for each dwelling unit</b>
<b>Hospital</b>	<b>Three spaces for each two beds</b>
<b>Library</b>	<b>One space for each 300 square feet of floor space</b>
<b>Manufacturing establishment</b>	<b>One space for each 1,000 square feet of floor area</b>
<b>Medical and dental</b>	<b>One space for each 200 square feet of floor area</b>
<b>Motel, hotel, or resort</b>	<b>One space for each guest accommodation</b>
<b>Nursing home or similar institution</b>	<b>One space for each three beds</b>
<b>Retail store, eating and drinking establishment</b>	<b>One space for each 200 square feet of floor area</b>

<b>Service or repair shop, retail store handling bulky merchandise such as automobiles and furniture</b>	<b>One space for each 600 square feet of floor area</b>
<b>Trailer Park</b>	<b>Two spaces for each trailer space</b>
<b>Warehouse, storage, and wholesale business</b>	<b>One space for each 2,000 square feet of floor or storage area</b>

*(Ord. 231, passed 2-12-1980)*

***Cross-reference:***

*Off-street Parking and Loading, see § 155.070 et seq.*