

SECTION 15 AMENDMENT REPEALING BUFFER DISTRICT.

Subsection 6.30, Buffer District B, of Ordinance No. 100, is repealed.

SECTION 16 AMENDMENT REVISING PLANNED DEVELOPMENT DISTRICT.

Subsection 6.40 of Ordinance No. 100 is amended to read:

6.40 PLANNED DEVELOPMENT DISTRICT PD

6.410 PURPOSES.

The purposes of the Planned Development District are to provide a means of creating planned environments through the application of flexible and diversified land development standards; to encourage the application of new techniques and new technology to community development which will result in superior living or development arrangements; to use land efficiently and thereby reduce the costs of housing, maintenance, street systems and utility networks; to promote energy conservation and crime prevention; to relate developments to the natural environment and to inhabitants, employers, employees, customers, and other users in harmonious ways.

6.420 PROCEDURE.

- (A) An application for approval of a Planned Development District and a preliminary Development Plan and Program shall be initiated by the property owner as provided under subsection 12.21.2.
- (B) Preliminary action on an application for a Planned Development District and on the Preliminary Development Plan and Program shall be by the Planning Commission under the provisions of subsections 12.20 through 12.29.2 and subsection 6.440(A).
 - (1) The decision of the Planning Commission shall be reported to the Board of County Commissioners in the manner provided in subsection 12.30.
 - (2) The decision of the Planning Commission shall be subject to the notice of review provisions of subsections 12.31 through 12.37.5.
 - (3) Action of the Planning Commission and the Board of County Commissioners for approval of a Planned Development District and a Preliminary Development Plan and Program, or for approval with conditions or modifications, shall be limited to approval in concept only and shall not constitute an amendment of the Zoning Map.
- (C) Within one year after action under subpart (B) of this subsection becomes final, the owner shall prepare and file with the Planning Director a Final Development Plan and Program, unless the action on the Preliminary Development Plan and Program shall have specified a different period.

- (D) Action on the Final Development Plan and Program shall be by the Planning Director according to the approval criteria of subsection 6.440(B) and the Design Review provisions of subsection 7.617.
- (1) The written decision of the Planning Director on the Final Development Plan and Program shall be made within 20 business days of filing by the applicant. The decision shall be filed with the Director of Environmental Services, and a copy mailed to the applicant.
 - (2) The decision of the Director may be appealed to the Planning Commission in the manner provided in subsections 12.38 and 12.39.
 - (3) Upon action by the Planning Director for approval of the Final Development Plan and Program or approval with conditions or modifications, the Director shall file with the Clerk of the Board for signature of the Executive Officer, a draft order amending the Zoning Map to designate the property as a Planned Development Special District.
 - (4) Unless an appeal of the Planning Director's decision is filed under subpart (2) of this subsection, the Executive Officer shall sign the draft order upon expiration of the appeal period.

6.430

DEVELOPMENT PLAN AND PROGRAM CONTENTS.

- (A) The preliminary Development Plan and Program shall consist of plans, maps or diagrams drawn in sufficient detail to indicate the nature of the plan elements and a written narrative descriptive of the program elements.
- (1) Plan Elements.
 - (a) Proposed land uses and residential densities.
 - (b) Means of access, circulation and parking.
 - (c) Building types and locations.
 - (d) Parks, playgrounds, paths and open spaces.
 - (e) Preliminary site analysis diagram as defined in subsection 7.614.1.
 - (f) A land division plan if the land is to be divided.

(2) Program Elements.

- (a) A narrative statement of the goals and objectives of the planned development.
- (b) Tables showing overall density of any proposed residential development and showing density by dwelling types and intensity of any commercial, industrial or other employment uses.
- (c) A narrative statement indicating how the proposed planned development complies with the applicable Comprehensive Plan Policies.
- (d) A general timetable of development.
- (e) The proposed ownership pattern.
- (f) An operation and maintenance proposal.

6.440 CRITERIA FOR APPROVAL.

- (A) Planning Commission action on the Preliminary Development Plan and Program shall be based on findings that the following are satisfied:
 - (1) The requirements of subsection 12.25.3 (a) and (c);
 - (2) The applicable provisions of the Land Division Chapter;
 - (3) That any exceptions from the standards or requirements of the underlying district are warranted by the design and amenities incorporated in the Development Plan and Program, as related to the purposes of subsection 6.410.
 - (4) That the system of ownership and the means of developing, preserving and maintaining open space is suitable to the purposes of the proposal.
 - (5) The provisions of subsection 6.452.
 - (6) That the proposed development can be substantially completed within four years of the approval or according to the development stages proposed under subsection 6.460.
 - (7) The Development Standards of subsections 6.451, 6.453, and 6.454.
 - (8) The purposes of subsection 6.410; and
 - (9) That modifications or conditions of approval are necessary to satisfy the purposes of subsection 6.410.

(B) Approval by the Planning Director of the Final Development Plan and Program shall be based on findings by the Director that the following are satisfied:

- (1) The Final Plan and Program are consistent with the approved Preliminary Development Plan and Program and the modifications or conditions attached thereto by the Planning Commission;
- (2) The Development Standards of subsection 6.450;
- (3) The criteria of subsection 7.618 and the standards of subsection 7.619.

6.441 MODIFICATIONS AND CONDITIONS.

In granting preliminary approval or final approval, the Planning Commission or the Planning Director may require such modifications of the Plan and Program, or attach such conditions of approval, as are necessary to satisfy the policies, purposes or standards of the Comprehensive Plan or of this Ordinance.

6.450 DEVELOPMENT STANDARDS.

The Development Standards stated in subsections 6.451 through 6.454 shall apply to an approved Planned Development. In the case of a conflict between a standard of the underlying district and that of the Planned Development District, the standard of the Planned Development District shall apply.

6.451 MINIMUM SITE SIZE.

A Planned Development District shall be established only on a parcel of land found by the Planning Commission to be suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes in subsection 6.410.

6.452 RELATIONSHIP OF THE PLANNED DEVELOPMENT TO ENVIRONMENT.

- (A) The Development Plan and Program shall indicate how the proposal will be compatible with the natural environment.
- (B) The elements of the Development Plan and Program shall promote the conservation of energy, and may include such factors as the location and extent of site improvements, the orientation of buildings and usable open spaces with regard to solar exposure and climatic conditions, the types of buildings and the selection of building materials in regard to the efficient use of energy and the degree of site modification required in the proposal.

- (C) The Development Plan and Program shall be designed to provide freedom from hazards and to offer appropriate opportunities for residential privacy and for transition from public to private spaces.
- (D) The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings, structures and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings, structures and uses.

6.453 OPEN SPACE.

"Open space" in a Planned Development District means the land area used for scenic, landscaping or open recreational purposes within the development.

- (A) Open space shall not include street rights-of-way, driveways or open parking areas.
- (B) Locations, shapes and sizes of open spaces shall be consistent with the proposed uses and purposes of the Planned Development.
- (C) Open spaces shall be suitably improved for intended use. Open spaces containing natural features worthy of preservation may be left unimproved or may be improved to assure protection of the features.
- (D) The development schedule shall provide for coordination of the improvement of open spaces with the construction of other site improvements proposed in the Development Plan and Program.
- (E) Assurance of the permanence of open spaces may be required in the form of deeds, covenants or the dedication of development rights to Multnomah County or other approved entity.
- (F) The Planning Commission may require that instruments of conveyance provide that in the event an open space is permitted to deteriorate or is not maintained in a condition consistent with the approved plan and program, the County may at its option cause such maintenance to be done and assess the costs to the affected property owners. Any instruments guaranteeing the maintenance of open spaces shall be reviewed as to form by the County Counsel.

DENSITY COMPUTATION FOR RESIDENTIAL DEVELOPMENTS.

In order to preserve the integrity of the Comprehensive Plan and relate a residential Planned Development to it, the number of dwelling units permitted shall be determined as follows:

- (A) Divide the total site area by the minimum lot area per dwelling unit required by the underlying district or districts in which the Planned Development is located.
- (B) Optional Density Standards. The following standards for the calculation of residential density may be used singularly or in combination, when approved by the Planning Commission:
 - (1) The permitted number of dwelling units determined under subpart (A) may be increased up to 25 percent upon a finding by the Planning Commission that such increased density will contribute to:
 - (a) Satisfaction of the need for additional urban area housing of the type proposed;
 - (b) The location of housing which is convenient to commercial, employment and community services and opportunities;
 - (c) The maintenance or improvement of air, water or noise level qualities of the area;
 - (d) Freedom from the adverse effects or excessive costs occasioned by any site development limitations;
 - (e) The creation of a land use pattern which is complementary to the community and its identity, and to the community design process;
 - (f) The conservation of energy;
 - (g) The efficient use of transportation facilities; and
 - (h) The effective use of land and of available utilities and facilities.
 - (2) The permitted number of dwelling units may be increased above those computed under (A) or (B) of this subsection, upon a finding by the Planning Commission that:
 - (a) The total number of persons occupying the site will not exceed the total otherwise permitted or authorized in the district, based upon the difference between the average family size occupying permitted units in the

vicinity and the family size limited by the proposed number of bedrooms, the proposed number of kitchens, the age composition of prospective residents, or other similar occupancy limitations; and

- (b) The proposal will satisfy the provisions of subsection 6.454(B)(1).

6.460 STAGING.

- (A) The applicant may elect to develop the site in successive stages in a manner indicated in the Development Plan and Program. Each such stage shall satisfy the requirements of this Ordinance.
- (B) In acting to approve the Preliminary Development Plan and Program, the Planning Commission may require that development be completed in specific stages if public facilities are not otherwise adequate to service the entire development.

6.470 PERMITTED USES.

6.471 In an underlying residential district, the following uses may be permitted in a Planned Development District:

- (A) Housing types may include single family detached or attached dwellings, duplexes, rowhouses, townhouses or apartments.
- (B) In the LR-7 and the LR-5 districts, outside a "Developed Neighborhood" as designated in the Community Plan, the housing type may include mobile homes:
 - (1) On individual lots in a subdivision approved for the purpose under the Land Division Chapter, subject to the development standards of subsection 3.411; and
 - (2) In a mobile home park, subject to the development standards of subsection 3.413.
- (C) A related commercial use which is designed to serve the development of which it is a part, upon approval by the Planning Commission.
- (D) A Community Service use listed in Section 7.00, when designed to serve the development or the adjacent area of which it is a part, upon approval by the Planning Commission.
 - (1) A Community Service use, when approved under the provisions of Section 7.00, may also be designed to serve the adjacent area outside the Planned Development if found by the Planning Commission to be appropriate and consistent with Comprehensive Plan policies.
- (E) A use or structure customarily accessory or incidental to a permitted or approved use.

- 6.472 For an underlying commercial or industrial district, the following uses may be permitted in a Planned Development District:
- (A) Uses permitted in the underlying district.
 - (B) Community Service Uses when approved by the Planning Commission under the provisions of Section 7.00.
 - (C) Any other use as approved by the Planning Commission when found to be consistent with the Development Plan and Program and the purposes of this Ordinance.
 - (D) A use or structure customarily accessory or incidental to a permitted or approved use.

6.475 CHANGES AND MODIFICATIONS.

- (A) A major change in the Preliminary or Final Development Plan and Program after it has been approved shall be considered as a new petition and shall be made in accordance with the procedures under subsection 6.420.
- (B) A minor change in the Preliminary or Final Development Plan and Program may be approved by the Planning Director. A "Minor Change" means a change which:
 - (1) does not increase the residential densities;
 - (2) does not enlarge the boundaries of the approved plan;
 - (3) does not change any use;
 - (4) does not change the general location or amount of land devoted to a specific land use; and
 - (5) includes only minor shifting of the location of buildings, proposed streets, public or private ways, utility easements, parks, paths or other public open spaces, or other features of the plan.

6.480 EXPIRATION OF PLANNED DEVELOPMENT APPROVAL.

If no substantial construction or development has occurred within four years of the date of Planning Commission action on the Preliminary Development Plan and Program, or within four years of any successive stage approved under subsection 6.460, the Planning Director shall schedule the question of expiration of the approval for public hearing by the Planning Commission.

- (A) Notice of the hearing shall be given in the manner provided in subsections 12.23 through 12.23.5.
- (B) The Planning Commission shall consider whether continuation of approval in whole or in part is in the public interest, and may extend the approval for a specific period with such modifications and conditions as are deemed appropriate, or may terminate the approval and order removal of the Planned Development designation.
- (C) The Planning Commission decision shall be reported to the Board in the manner provided in subsection 12.30.
- (D) The Planning Commission decision is subject to the review provisions of subsections 12.31 through 12.37.5.

SECTION 17 AMENDMENT TO COMBINE ACTION PROCEEDINGS, WRG PERMIT.

Subsection 6.64.b. of Ordinance No. 100, is amended to read:

- b. For a Conditional Use as specified either in the underlying district or in Section 7.50, or for a Community Service Use as specified in Section 7.00, or for a change of zone classification, or for any other action as specified in subsection 12.21, the Greenway Permit Application shall be combined with the required application for the proposed action and filed in the manner provided in subsections 12.20 and 12.22.

SECTION 18 AMENDMENT DESIGNATING HEARINGS OFFICER TO ACT ON WRG PERMITS.

Subsections 6.65.2, 6.65.21, 6.65.22, 6.65.41, and 6.65.42 of Ordinance No. 100 are amended to change "Hearings Council" to "Hearings Officer".

SECTION 19 AMENDMENT ADDING REFERENCE TO EXCEPTION FROM SEC DISTRICT.

Subsection 6.72 of Ordinance No. 100 is amended to read:

- 6.72 AREAS AFFECTED. Except as otherwise provided in subsection 6.73, this subsection shall apply to those lands designated SEC on the Multnomah County Zoning Map.

SECTION 20 AMENDMENT ADDING ACTIONS INCLUDED IN SEC PERMIT.

Subsection 6.74.b. of Ordinance No. 100 is amended to read:

- b. For a Conditional Use as specified either in the underlying district or in Section 7.50, or for a Community Service Use as specified in Section 7.00, or for a change of zone classification or for any other action as specified in subsection 12.21, the SEC permit application shall be combined with the required application for the proposed action, and filed in the manner provided in subsections 12.20 and 12.22.

SECTION 21 AMENDMENT ADDING PLAN POLICIES AS BASIS FOR SEC PERMIT CONDITIONS.

Subsection 6.75.4 of Ordinance No. 100 is amended to read:

- 6.75.4 SCOPE OF CONDITIONS. Conditions of approval of an SEC permit, if any, shall be designed to bring the application into conformance with the applicable policies of the Comprehensive Plan. Said conditions may relate to the locations, design and maintenance of existing and proposed improvements, including but not limited to buildings, structures

and use areas, parking, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts and fills, signs, graphics, and lighting.

SECTION 22 AMENDMENT ADDING NOISE QUALITY TO SEC PERMIT APPROVAL CRITERIA.

Subsection 6.76.n. of Ordinance No. 100 is amended to read:

- n. The quality of the air, water and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.

SECTION 23 AMENDMENTS ADDING NATURAL VEGETATION AND PLAN POLICIES TO SEC APPROVAL CRITERIA.

Subsection 6.76 of Ordinance No. 100 is amended by adding the following subparts:

- p. An area generally recognized as a fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.
- q. The applicable policies of the Comprehensive Plan shall be satisfied.

SECTION 24 AMENDMENT CHANGING HEARINGS COUNCIL TO HEARINGS OFFICER FOR ACTION ON SEC PERMITS.

Subsections 6.75.2, 6.75.21, 6.75.22, 6.75.31, and 6.75.32 of Ordinance No. 100 are amended to change "Hearings Council" to "Hearings Officer".

SECTION 25 AMENDMENT ADDING HERITAGE PRESERVATION DISTRICT

Ordinance No. 100 is amended by adding the following Section:

6.80 HERITAGE PRESERVATION DISTRICT HP

6.801 PURPOSES. The general purposes of the Heritage Preservation Subdistricts are to implement various provisions of the Comprehensive Plan, the statewide planning goals, and elements of County programs to preserve and conserve for public benefit those districts, sites, buildings, structures and objects which are found to be significant in history, architecture, archeology and culture; to assist heritage preservation projects and activities in the public and private sector; to authorize adaptive uses not otherwise permitted where beneficial to the purposes of preservation; to establish development standards and other regulatory techniques designed to achieve the purposes of heritage preservation.

6.802 GENERAL FINDINGS AND POLICY. The Board finds:

- (A) The Statewide Planning Goals and the County's Comprehensive Framework Plan and Community Plans Policies implemented by the Heritage Preservation District are Goal 5 and Policies No. 15, 16, 17 and 18;
- (B) The Goal and these Policies provide for the preservation, maintenance and beneficial use of districts, sites, buildings, structures and objects which have been identified as having historical, architectural, archeological or cultural significance;
- (C) Surveys conducted in unincorporated Multnomah County reveal the presence of a wide variety of such sites, buildings and objects;
- (D) Each site, building or object has unique characteristics or circumstances such that no single overlay preservation zone would be adequate to address the range of issues involved; and
- (E) These individual situations thus require special sets of measures, each designed to apply the preservation techniques found most appropriate.
- (F) The creation and enactment of a special overlay subdistrict when a site, building, object or need is identified, is deemed to be the effective and flexible means to implement the policies and purposes of heritage preservation.

6.803 AREAS AFFECTED. The provisions of a Heritage Preservation Subdistrict shall apply to land areas according to their designations as Subdistricts HP-1, HP-2, HP-3, etc., on the Multnomah County Zoning Map.

PROCEDURE TO ESTABLISH AN HP SUBDISTRICT.

- (A) An HP Subdistrict shall be established as an addition to this section by legislative amendment of the text and Zoning Map of this Ordinance.
- (B) An amendment establishing an HP Subdistrict shall include the following:
 - (1) The designation of the Subdistrict as HP-1, HP-2, HP-3, etc., in the text and on the appropriate Sectional Zoning Map;
 - (2) A statement of the purposes of the Subdistrict;
 - (3) Definitions of terms, as appropriate;
 - (4) A statement of the findings and policies on which the subdistrict is based, including reference to the related Community Plan or Comprehensive Plan provision which the subdistrict is designed to implement, or to the special problems or circumstances which the subdistrict is designed to address;
 - (5) A description of the relationships between the provisions of the HP Subdistrict and those of the underlying district;
 - (6) A listing of the HP Subdistrict uses authorized as permitted uses, uses under prescribed conditions or conditional uses, as appropriate;
 - (7) A description of any approval procedures or criteria required to satisfy the subdistrict provisions;
 - (8) Any development standards, dimensional requirements or special provisions for authorized uses in the subdistrict;
 - (9) A description of the nature of and approval procedures for any exceptions from subdistrict requirements;
 - (10) A statement of the methods of appeal from a decision made under the provisions of the subdistrict; and
 - (11) Any other provision deemed appropriate to the purposes of the HP Subdistrict.

SECTION 26 REPEALS SPECIAL PLANNED AREA SUBDISTRICT NO. 1 SPA-1

Subsections 6.855 through 6.860 of Ordinance No. 100 are repealed.

SECTION 27 AMENDMENT REVISING COMMUNITY SERVICE SECTION.

Section 7.00 or Ordinance No. 100 is amended to read:

7.00 COMMUNITY SERVICE CS

7.010 PURPOSE

This Section provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate in any district, but not suitable for listing within the other sections of this Ordinance.

7.020 GENERAL PROVISIONS.

7.021 Application for approval of a Community Service use shall be made in the manner provided in subsection 12.20.

7.022 The Hearings Officer shall hold a public hearing on each application for a Community Service Use, modification thereof, or time extension.

7.023 The approval of a Community Service Use shall expire two years from the date of such approval if substantial construction or development has not taken place, unless the Hearings Officer shall have established a longer period.

7.024 A Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the Hearings Officer. Any change of use or modification of limitations or conditions shall be subject to Hearings Officer approval after a public hearing.

7.025 In granting approval of a Community Service Use, the Hearings Officer may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval.

7.025.1 Uses authorized pursuant to this section shall be subject to Design Review approval under Section 7.60.

7.026 A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

7.027 COMMUNITY SERVICE APPROVAL CRITERIA

In approving a Community Service Use, the approval authority shall find that the proposal:

- (A) Is consistent with the character of the area;
- (B) Will not adversely affect natural resources;
- (C) Will not conflict with farm or forest uses in the area;
- (D) Will not require public services other than those existing or programmed for the area;
- (E) Will not create hazardous conditions; and
- (F) Will satisfy the applicable policies of the Comprehensive Plan.

7.030 USES

Except as otherwise provided in Section 3.10, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the Hearings Officer:

- (A) Boat moorage, marina or boathouse moorage.
- (B) Camp, campground or recreational vehicle park.
- (C) Cemetery, crematory, mausoleum, mortuary or funeral home.
- (D) Church.
- (E) Group care facility.
- (F) Government building or use.
- (G) Hospital, sanitarium, rest or retirement home.
- (H) Kindergarten or day nursery.
- (I) Library.
- (J) Park, playground, sports area, golf course or recreational use of a similar nature.
- (K) Philanthropic or eleemosynary institution.
- (L) Power substation or other public utility building or use.

- (M) Private club, fraternal organization, lodge.
- (N) Racetrack.
- (O) Radio or television station or tower.
- (P) Refuse dump or sanitary landfill.
- (Q) Resort, dude ranch, hunting or fishing lodge.
- (R) Recycling collection center.
- (S) Riding academy or the boarding of horses for profit.
- (T) School, private, parochial or public; educational institution.
- (U) Transit station.
- (V) Waste collection, transfer, processing, or recovery facility.
- (W) Accessory uses to the above.

- (1) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

7.040 RESTRICTIONS

A building or use approved under subsection 7.030 shall meet the following requirements:

7.041 Minimum yards in EFU-38, CFU-38, F-2, MUA-20, MUF-20, RR, RC, UF-20, UF-10, LR-40, LR-30, LR-20, LR-10, R-40, R-30, R-20, and R-10 Districts:

- (A) Front yards shall be 30 feet.
- (B) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.
- (C) Rear yards shall be as required in the district.

7.042 Minimum yards in LR-7.5, LR-7, LR-5, MR-4, MR-3, HR-2, HR-1, R-7.5, R-7, R-4, A-2, BPO, and A-1-B Districts:

- (A) Front yards shall be 30 feet.
- (B) Side yards for one-story buildings shall be 15 feet; for two-story buildings, 20 feet.
- (C) Rear yards shall be as required in the district.

- 7.043 Minimum yards in other districts shall be as required in the district.
- 7.044 Minimum Site Size:
- (A) A day nursery or kindergarten shall provide not less than 100 square feet per child, of outdoor play area located other than in a required front yard.
 - (B) Primary (kindergarten through fourth grade), private and parochial schools shall be on sites of one acre for each 90 pupils or one acre for each three classrooms, whichever is greater.
 - (C) Elementary public schools shall be on sites of one acre for each 75 pupils or one acre for each two and one-half classrooms, whichever is greater.
 - (D) Churches shall be on sites of 15,000 square feet.
- 7.045 Off-street parking and loading shall be provided as required in Section 6.20.
- 7.046 A Community Service Use located in a district in Section 3.00 of this Ordinance shall have not more than two on-premise signs associated with the use. The following standards shall apply to such signs:
- (A) They shall identify the use or occupancy of the premises only;
 - (B) The total maximum area on one side shall be 0.20 square feet for each foot of frontage of the lot on any one street;
 - (C) They shall have indirect illumination, if any;
 - (D) They shall be placed flat against the facade of a building or, if freestanding, on a permanent structure not exceeding eight feet in height located not less than fifteen feet from any lot line; and
 - (E) May include a removable accessory sign incorporated with and not exceeding 25 percent of the area of a permitted sign, giving information about a meeting or special event associated with the use, announcing a class schedule, athletic or other similar event or program, the availability of spaces for rent or other similar information of a temporary nature.
- 7.047 Other restrictions or limitations of use or development not required under this subsection shall be as provided in the district.

BUS PASSENGER SHELTERS.

- (A) In addition to all other uses permitted in any district, bus passenger shelters (hereinafter "shelters") intended for use by the general public and owned or controlled by a city, county, state or municipal corporation shall be allowed.
- (B) Prior to installing a shelter, the sponsor shall notify owners of property located within 150 feet of the center point of the proposed site location that the sponsor intends to apply to the Planning Director for authority to install a shelter. Thereafter, the sponsor may submit to the Planning Director an application which shall include a plot plan setting out the location of and plans and specifications for the proposed shelter. With the consent of the Director, more than one shelter location may be included in an application.
- (C) Within 30 days after the application, the Planning Director shall review it in light of the effects on:
 - (1) Surrounding land uses;
 - (2) Vehicular traffic and pedestrian safety;
 - (3) Drainage;
 - (4) Native or landscaped vegetation;
 - (5) Public and private utilities;
 - (6) Road construction and maintenance;
 - (7) Access or egress from adjacent property; and
 - (8) Compliance with the applicable building code.
- (D) If the application is approved, the shelter may be installed. If the application is not approved, the sponsor shall be given written notice of that determination and the basis therefor.
- (E) If it becomes necessary that a shelter be moved for any reasonable cause, the sponsor shall move the shelter at its own expense, on 30 days written notice, excepting emergency circumstances, from the Multnomah County Department of Environmental Services.

SECTION 28 AMENDMENT AUTHORIZING HEARINGS OFFICER ACTION ON RPD PROPOSALS.

The following subsections of Section 7.10 of Ordinance No. 100 are amended to read:

7.105 PROCEDURES

The development of land under the standards of RPD shall be subject to approval by the Hearings Officer under the procedures described in subsections 7.105.1 through 7.107.

7.105.3 HEARING.

A hearing on a proposed Rural Planned Development shall be held by the Hearings Officer under the provisions of subsections 12.25 through 12.25.3.

7.105.4 DECISION

A decision on a proposed Rural Planned Development by the Hearings Officer shall be based upon the findings listed in subsection 7.105.5.

7.106 EXPIRATION OF APPROVAL

Approval of a Rural Planned Development shall be void after the expiration of 18 months after a final decision if no substantial construction or substantial expenditure of funds consistent with the approval has occurred on the property, unless a greater time period was initially authorized by the Hearings Officer.

SECTION 29 AMENDMENT REVISING PROCEDURAL PROVISIONS OF CONDITIONAL USE
SECTION.

The following subsections of Section 7.50 of Ordinance No. 100 are amended to read:

7.521 GENERAL PROVISIONS.

- (A) Application for approval of a Conditional Use shall be made in the manner provided in subsection 12.20.
- (B) The Hearings Officer shall hold a public hearing on each application for a Conditional Use, modification thereof, time extension or reinstatement of a revoked permit.
- (C) The approval of a Conditional Use shall expire two years from the date of such approval if substantial construction, development or use has not taken place, unless the Hearings Officer shall have established a longer period.
- (D) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Hearings Officer. Any change of use or modification of limitations or conditions shall be subject to Hearings Officer approval after a public hearing.
- (E) The findings and conclusions made by the Hearings Officer and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in subsection 7.523 and in the district provisions.
- (F) A decision by the Hearings Officer on an application for a Conditional Use may be appealed to the Board of County Commissioners in the manner provided in subsection 12.31.

7.523 CONDITIONAL USE APPROVAL CRITERIA.

In approving a Conditional Use listed in a district or in this Section, the approval authority shall find that the proposal:

- (A) Is consistent with the character of the area;
- (B) Will not adversely affect natural resources;
- (C) Will not conflict with farm or forest use in the area;

- (D) Will not require public services other than those existing or programmed for the area;
- (E) Will not create hazardous conditions; and
- (F) Will satisfy the applicable policies of the Comprehensive Plan.

7.532 SUSPENSION OR REVOCATION OF CONDITIONAL USE PERMIT.

- (A) A Conditional Use permit may be suspended by the Planning Director upon a finding by the Director that any condition or restriction of use is not satisfied.
- (B) The Director shall notify the owner by first class mail, return receipt requested, of the suspension, the reasons for the decision, the action necessary for reinstatement, and the time limit and appeal procedures of this subsection.
- (C) Within 90 days of the suspension notice, the Director shall reinstate the Conditional Use permit upon a finding that the conditions or restrictions of use are satisfied.
- (D) Unless a longer period shall have been approved by the Planning Director, a Conditional Use permit suspended for a period in excess of 90 days shall be revoked by notice from the Director to the owner in the manner provided in subpart (B) of this subsection.
- (E) A revoked Conditional Use permit may only be reinstated by action of the Hearings Officer upon a new application for a Conditional Use permit under the provisions of this subsection.
- (F) A decision of the Planning Director to suspend or revoke a Conditional Use permit may be appealed to the Hearings Officer in the manner provided in subsections 12.38 and 12.39.

SECTION 29A AMENDMENTS OF MINERAL EXTRACTION PROVISIONS.

Section 7.5403.a. through 10.c. of Ordinance No. 100 is amended to read as follows:

7.5403 MINERAL EXTRACTION.

(A) Definitions.

- (1) "Mining" means the removal of minerals, whether extracted from land or water, by any method, including but not limited to shoveling, blasting, scooping, and dredging.

- (2) "Mineral" includes any and all mineral products, metallic and non-metallic, solid, liquid or gaseous, and mineral waters of all kinds extracted for commercial, industrial or construction use from natural deposits.
- (3) "Geothermal Resources" shall have the meaning contained in ORS 522.005.
- (4) "Reclamation Plan" shall have the meaning contained in ORS 517.750.

(B) Board Findings.

- (1) There is a need to conserve and protect known mineral and aggregate resources for present and future generations.
- (2) There is a need to plan and make allowances for interim, transitional, and secondary use utilization of mineral and aggregate resource extraction areas.
- (3) There is a need to promote healthy and visually attractive environments, and to reduce conflicts between different land uses.
- (4) There is a need to provide regulations in accordance with LCDC Statewide Planning Goals.

(C) PURPOSES.

The purposes of the Mineral Extraction subsection are to promote the public health, safety and general welfare, all in accordance with ORS 215, ORS 517, and 522, LCDC Statewide Planning Goal #5, and the Multnomah County Comprehensive Framework Plan. The regulation of uses within this district are designed to:

- (1) Recognize mineral and aggregate resource extraction as a land use influenced largely by the location of the natural resource and the location of the market;
- (2) Provide maximum flexibility for location of the extraction process within a variety of underlying zones, while at the same time minimizing potentially adverse effects on the public and property surrounding the extraction site;
- (3) Recognize the potential for future changes in the character of the area in which the extraction site may be located, and allow for periodic modification of restrictions which may be placed upon the extraction operations in recognition of these changes; and

- (4) Recognize mineral extraction as a temporary use dependent to a large degree upon market conditions and resource size, and that reclamation and the potential for future use of the land for other activities must also be considered.

(D) USES.

- (1) Extraction of materials including the storage, stockpiling, distribution, and sale thereof;
- (2) Installation and operation of plants or apparatus for rock crushing and cement treatment of minerals excavated at the site for which the Conditional Use is being requested, including screening, blending, washing, loading, and conveying of materials.
- (3) Mining and processing of geothermal resources.
- (4) Activities utilizing the extracted minerals such as mixing or batching plants, or manufacturing the extracted minerals into finished products.
- (5) Structures, facilities and mobile homes for the repair, maintenance, and storage of equipment or supplies, office spaces or watchman, as are reasonably necessary for the conduct of the proposed use.

(E) CRITERIA FOR APPROVAL.

The approval authority shall find that:

- (1) An economic deposit of the mineral resource proposed to be extracted exists.
- (2) There is a proposed reclamation plan which is in conformance with the Comprehensive Plan and the underlying district.
- (3) Adverse impacts on surrounding areas with regard to the following have been, or can be mitigated:
 - a. Access and traffic;
 - b. Screening, landscaping, lighting, and visual appearance;
 - c. Signing;
 - d. Hours of operation;
 - e. Air, water, and noise pollution;

- f. Insurance and liability;
- g. Architectural designs of structures;
- h. Excavation depths, lateral support, and slopes;
- i. Blasting and other vibration causing actions;
- j. Safety and security;
- k. Phasing program; and
- l. Reclamation.

- (4) The proposed operations will not result in the creation of a geologic hazard to surrounding properties, such as through slumping, sliding, or drainage modifications, and have been certified by a registered soils or mining engineer, or engineering geologist as meeting this requirement.
- (5) Setbacks for the proposed operations are appropriate for the nature of the use and the area where the use is to be conducted.
- (6) Conditional or preliminary approval for all phases of the proposed operation, including reclamation, has been received from all governmental agencies having jurisdiction over mineral extraction, and the applicable requirements in ORS 517 and ORS 522 have been complied with.
- (7) The applicable standards in Section 7.523 have been complied with.

(F) TIME LIMIT.

A Conditional Use permit granted hereunder shall be valid for a maximum of five years from date of final approval. The applicant may apply for renewal not less than 90 days prior to the expiration of such permit. The renewal application may be denied, approved subject to previous conditions, or approved subject to new conditions in light of the following factors, among others:

- (1) Previous impacts of the use upon surrounding lands and activities, changes in surrounding land uses and activities, and changes in technology and activities of the operation which will impact the surrounding lands and activities.

(G) EXISTING OPERATIONS.

All mineral extraction uses that have been approved under Section 5.412(v), 5.430, and 7.5403, prior to the effective date of Ordinance No. _____, shall continue to comply with the following requirements:

- (1) No production from an open pit or the removal of sand or gravel shall leave a slope exceeding one foot horizontal for one foot vertical.
- (2) No mining, quarrying, excavating or processing of material shall be permitted closer than 100 feet from the boundaries of a Natural Resource, Rural, Residential, Office or Commercial district.
- (3) Properties to be used for surface mining shall be enclosed on the boundaries by a sight obscuring fence, except for reasonable areas of access and egress, as designated by the approval authority.
- (4) No permanent structure, such as rock crusher, washer or sorter, shall be located closer than 500 feet from any district boundary.
- (5) Any conditions of operation imposed as a result of previous zoning controls or regulations shall continue.

SECTION 30 AMENDMENT ADDING STORAGE OF SPECIAL INTEREST MOTOR VEHICLES AS CONDITIONAL USE.

Section 7.50 of Ordinance No. 100 is amended by adding the following subsection:

7.5404 STORAGE OF MOTOR VEHICLES OF SPECIAL INTEREST.

- (A) DEFINITIONS. For the purpose of this subsection, the following terms are hereby defined:

- (1) Collector. A person who owns one or more motor vehicles of special interest who collects, purchases, acquires, trades or disposes of those motor vehicles or parts thereof for the person's own use in order to preserve, restore and maintain a motor vehicle of special interest for hobby purposes.

- (2) Motor Vehicle of Special Interest. A motor vehicle satisfying the criteria of paragraph (a) of subsection (4) or paragraph (c) of subsection (6) of ORS 481.205 or otherwise unique due to limited production, original production mechanical or styling oddities, high intrinsic value or produced by a company no longer in existence.
 - (3) Parts Car. A motor vehicle generally in inoperable condition that is owned by a collector to furnish parts that are not obtainable from normal sources, thus enabling a collector to preserve, restore and maintain a motor vehicle of special interest.
- (B) USES. The following uses may be permitted under this subsection, when approved by the Hearings Officer:
- (1) The storage by a collector of one or more motor vehicles of special interest.
 - (2) The storage of parts of motor vehicles of special interest or of a parts car or cars when accessory to the storage of one or more motor vehicles of special interest.
- (C) APPROVAL CRITERIA. The approval authority shall find that the proposal will satisfy the approval criteria listed in subsection 7.523.
- (D) CONDITIONS AND RESTRICTIONS. In addition to the conditions and restrictions which may be attached under the provisions of subsection 7.522, the approval authority:
- (1) Shall specify the location and size of the storage area;
 - (2) Shall require the enclosure of the storage area within a sight-obscuring fence and that stored items be maintained in a manner so as not to be visible above the top of the fence; and
 - (3) May require some or all of the stored items to be contained within a completely enclosed building or under a roofed structure of a size, location and design which is compatible with other permitted structures in the vicinity.

SECTION 31 AMENDMENT ADDING STANDARDS FOR CERTAIN PRE-EXISTING USES.

Section 7.50 of Ordinance No. 100 is amended by adding the following subsections:

7.560 FINDINGS CONCERNING CERTAIN PRE-EXISTING USES. The Board finds:

- (A) The Development Pattern, Comprehensive Plans and ordinance establishing zoning to carry out the pattern and plans were adopted by the Board during the period 1955-1958, under the provisions of ORS Chapter 215.
- (B) Certain land uses established prior to the enactment of the Development Pattern, Comprehensive Plans, and zoning ordinances were found to be inconsistent with plan and ordinance purposes and were therefore declared non-conforming uses and subject to limitations of change or alteration.
- (C) Extensive land uses and developments have occurred since adoption of the said pattern, plans and zoning ordinances and in implementation of them.
- (D) Under ORS Chapter 197 and ORS Chapter 215, as revised, Multnomah County has undertaken major revisions of the said pattern, plans and zoning ordinances in the form of the Comprehensive Framework Plan, the several Community Plans, and accompanying revisions of the Zoning Ordinance.
- (E) The pre-existing uses described in subpart (C) are distinguishable from those non-conforming uses described in subpart (B) which pre-dated any County land use plans or regulations, since the former were established in conformity with the adopted pattern, plans and ordinances, and the latter were not.
- (F) The pre-existing uses described in subpart (C) are sufficiently consistent with past and present policies of the Comprehensive Plan and the purposes of Ordinance No. 100, that they should be permitted within the districts where they are located, subject to special conditions.

7.561 STANDARDS FOR CERTAIN PRE-EXISTING USES. A use conforming to the provisions of Ordinance No. 100 prior to the effective date of Ordinance No. _____, but not thereby listed in the applicable district as a primary use, a use under prescribed conditions or a conditional use, is subject to the provisions of subsections 7.562 through 7.567.1.

7.562 EXPANSION OR ENLARGEMENT. Except as provided in subsection 7.565, expansion, change in construction or enlargement of a use described in subsection 7.561 shall be permitted but shall be limited to the Lot of Record legally occupied by the use on the effective date of Ordinance No. _____.

- 7.563 RESUMPTION OR RESTORATION. Resumption or restoration of a use described in subsection 7.561 after interruption, damage or destruction for any reason, shall be permitted without action proceedings if initiated within two years of such interruption, damage or destruction.
- 7.564 CHANGE TO A LISTED USE. A change of a use described in subsection 7.561 to a use listed in the district as a primary use, use under prescribed conditions or conditional use shall be subject to the procedural requirements for approval, if any, and the locational criteria and the development standards which are applicable to the proposed use.
- 7.565 EXPANSION BEYOND LOT OF RECORD. Subject to the provisions of subsection 7.567.1, an expansion of a use described in subsection 7.561 to an adjacent lot or lots may be approved by the Hearings Officer under the procedural provisions of subsections 12.20 through 12.39 upon a finding by the Officer that the applicable provisions of subsection 7.567(B) are satisfied.
- 7.566 CHANGE TO ANOTHER UNLISTED USE. Subject to the provisions of subsection 7.567.1, a change of a use described in subsection 7.561 to another use not listed in the district as a primary use, use under prescribed conditions or conditional use may be approved by the Hearings Officer under the procedural provisions of subsections 12.20 through 12.39, upon a finding by the Officer that the applicable provisions of subsection 7.567(A) and (B) are satisfied.
- 7.567 EXPANSION OR CHANGE OF UNLISTED USE APPROVAL CRITERIA. In approving an expansion of a use beyond the Lot of Record under subsection 7.565 or a change to another unlisted use under subsection 7.566, the approval authority shall find that:
- (A) For a change of an unlisted use, the current use is of a building, buildings or other substantial site improvements of a nature such that conversion to a use listed in the district would not be practical; and
 - (B) For an expansion or for a change of a use, the change or expansion will affect the surrounding area to a lesser negative extent than the current unlisted use, considering:
 - (1) The character and history of the use and of development in the surrounding area;
 - (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;
 - (3) The comparative numbers and kinds of vehicular trips to the site;

- (4) The comparative amount and nature of outside storage, loading and parking;
- (5) The comparative visual appearance;
- (6) The comparative hours of operation;
- (7) The comparative effect on existing vegetation;
- (8) The comparative effect on water drainage;
- (9) The degree of service or other benefit to the area; and
- (10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.

7.567.1 A use described in subsection 7.561 which is a use of land only, there being no substantial site improvement, may not be expanded to an adjacent lot and may only be changed to a primary use, a use under prescribed conditions or a conditional use listed in the district according to the procedural requirements, if any, the locational criteria, and the development standards which are applicable to the proposed use.

SECTION 32 AMENDMENT DESIGNATING THE HEARINGS OFFICER AND PLANNING DIRECTOR TO ACT ON APPLICATIONS IN PLACE OF HEARINGS COUNCIL AND BOARD OF ADJUSTMENT.

- (A) Subsections 7.522; 7.531; 7.5402.a.1.; 7.5402.a.7.; 7.5403.a.4., 6, 7, 8, and 11; and 7.5404.a.4. and a.5., of Ordinance No. 100, are amended to change "Hearings Council" to "Hearings Officer"; and
- (B) Subsection 7.5403.b.3., is amended to change "Board of Adjustment" to "Planning Director".

SECTION 33 AMENDMENT OF DESIGN REVIEW PROVISIONS.

The following subsections of Ordinance No. 100 are amended to read:

- (A) 7.620.a.2. Dimensional standards for off-street parking as required under Section 6.20.
- (B) 7.621 APPEAL TO HEARINGS OFFICER.

A decision on a final design review plan may be appealed to the Hearings Officer in the manner provided in subsections 12.38 and 12.39.

SECTION 34. AMENDMENT ESTABLISHING A PLANNING AND ZONING HEARINGS OFFICER;
REPEALING PROVISIONS FOR A HEARINGS COUNCIL AND FOR A BOARD
OF ADJUSTMENT.

Subsections 8.00 through 8.25 of Ordinance No. 100 are amended to read:

8.00 PLANNING AND ZONING HEARINGS OFFICER.

8.10 ESTABLISHMENT. There is hereby authorized the appointment of one or more Planning and Zoning Hearings Officers, hereinafter "Hearings Officer", who shall advise the Board and exercise such powers and duties as are described in this Ordinance.

8.11 APPOINTMENT.

(A) A Hearings Officer and one or more alternates shall be appointed by order of the Board of County Commissioners and shall serve at the pleasure of the Board. The terms of any such appointments shall be as set forth by professional service contract.

(B) In the event of the non-appointment or absence of a Hearings Officer, the Planning Commission shall assume the powers and duties of the Hearings Officer.

8.16 POWERS AND DUTIES. Except as provided in this or other ordinance, a Hearings Officer shall:

(A) Exercise the authority of a planning and zoning Hearings Officer under ORS 215.402 through 215.422 (1977).

(B) As provided by Ordinance, consider and decide applications:

(1) For variance involving:

(a) Yard or setback requirements;

(b) Height requirements;

(c) Lot widths;

(d) Lot depths;

(e) Lot areas or lot coverages;

(f) Requirements relating to sight obscuring fences;

(g) Requirements relating to the height, size and location of signs;

- (h) Off-street parking and loading requirements; and
 - (i) Other dimensional requirements of this Ordinance.
- (2) For health hardship, temporary permits under subsection 12.72 through 12.72.3.
- (C) Recommend to the Board ordinances renaming public thoroughfares and the numbering of property under ORS 215.110(2);
 - (D) Consider and decide applications for approval of land divisions;
 - (E) Hear and act upon appeals from administrative interpretations by the Planning Director when such appeals are authorized by ordinance;
 - (F) Enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon, as required to perform assigned functions;
 - (G) Advise the Planning Commission and the Board concerning any problem comprehended within the powers and duties of Hearings Officer; and
 - (H) Exercise such other powers and perform such other duties as may be given to the Hearings Officer by this or other ordinance.

8.17 HEARINGS; NOTICES.

The Hearings Officer shall hold at least one public hearing each month. Additional hearings and the time and place of all hearings shall be as scheduled by the Planning Director.

8.17.1 Before any hearing of the Hearings Officer for the conduct of business, notice shall be given as required by law and also in the following manner:

- (A) By posting a notice in a conspicuous place in the Multnomah County Courthouse not less than seven days prior to the hearing;
- (B) Except for actions under subsection 12.21.d. and e., by notice of the date, time, place and agenda of the hearing at least once in any daily newspaper having general circulation in excess of 50,000 in Multnomah County not less than seven days before the hearing;
- (C) By providing notice as required by subsections 12.23 through 12.23.5; and

(D) By providing such notice and in such other manner as the Board or the Hearings Officer may direct.

8.17.2 The Hearings Officer shall hold a public meeting jointly with the Planning Commission at least once each four months to consider such matters as the Commission or the Officer may propose. Notice of each joint meeting shall be given as required by law and as required in subsection 8.17.1.b.

8.17.3 The Chairperson of the Planning Commission or designated substitute shall preside at the joint meetings provided for under subsection 8.17.2.

8.18 RULES OF PROCEDURE.

The conduct of hearings of the Hearings Officer shall be according to procedures prescribed by order of the Officer and filed with the Clerk of the Board.

8.18.1 A Hearings Officer shall not participate in any proceeding or action specified by this Ordinance in which any of the following has a direct or substantial financial interest: The Officer, the Officer's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner in any business of which he or she is then a member or has been a member within the previous two years or in any business with which he or she is negotiating or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential financial or other interest which would lead to bias or partiality shall be disclosed according to subsection 12.23.9, at the hearing where the action is considered.

8.19 COORDINATION.

The Hearings Officer shall advise and cooperate with the Planning Commission and with other planning commissions, hearings officers, agencies or bodies within the State, and shall, upon request or on the Officer's own initiative, furnish advice or reports to the State or Federal government, to the Board, or to any city, county, officer or department on any problem comprehended within the assigned powers and duties.

8.19.1 All County officials, departments and agencies having information, maps and data deemed by the Hearings Officer to be pertinent to the assigned powers and duties shall make such information available for the use of the Hearings Officer.

SECTION 35 AMENDMENTS IMPLEMENTING HEARINGS OFFICER POSITION UNDER PLANNING DIRECTOR'S DUTIES.

- (A) Subparts 12.10.b., f., i., and j., of Ordinance No. 100 are amended to change "Hearings Council and/or Board of Adjustment" to "Hearings Officer"; and
- (B) Subpart 12.10.g., of Ordinance No. 100 is amended to read:
 - "g. Record the decision of the Planning Commission and the Hearings Officer on each matter heard and the vote of each member of the Planning Commission, members absent or failing to vote, and the reasons for the decision;"

SECTION 36 AMENDMENTS IMPLEMENTING HEARINGS OFFICER POSITION UNDER ACTION PROCEEDINGS.

The following subsections of Ordinance No. 100 are amended to read:

- (A) 12.23 NOTICE OF HEARING, CONTENTS.
 - Notice of hearing before the Planning Commission or Hearings Officer shall contain the following:
 - a. The date, time and place of the hearing;
 - b. A legal description of the subject property;
 - c. The nature of the proposed action;
 - d. A statement that all interested parties may appear and be heard;
 - e. A statement that the hearing shall be held pursuant to the adopted Rules of Procedure; and
 - f. In the case of a hearing by the Planning Commission, the names of the members of the Commission and, in the case of a hearing by the Hearings Officer, the name of the Officer.
- (B) 12.23.1 When the proposed action is a change of zone classification, the Planning Director may include in the notice of hearing a statement that the approval authority may consider classifications other than that for which the action is initiated.
- (C) 12.23.2 In addition to the notice required by subsection 8.17.1 and any other notice required by law, notice shall be mailed at least ten days prior to the hearing to the following persons:

- a. The applicant;
 - b. All record owners of property within 100 feet of the subject property on matters listed under subsections 12.21.d. and e., and to record owners of property within 250 feet of the subject property on all other matters.
- (D) 12.23.4 In addition to the notice required by subsection 12.23.2, the party initiating an action under subsections 12.21 a., b., c., or f., shall, at the party's expense, post signs on the property conspicuously displaying notice of the pending hearing at least ten days prior to the date of the hearing. One sign shall be required for each 300 feet, or part thereof, of frontage of the subject property on any street. The content, design, size and location of the signs shall be as determined by the Planning Director to assure that the information thereon is legible from the public right of way. As a precondition to a hearing, the party shall file an affidavit of such posting with the Planning Director not less than five days prior to the hearing.
- (E) 12.23.5 A hearing may be continued from time to time as necessary. If a hearing is adjourned to a date certain, no additional notice shall be given unless ordered by the approval authority.
- (F) 12.24 PARTIES.
- The following persons only are "parties", and shall be entitled either themselves or through their representatives or counsel, to make an appearance of record at a hearing before the approval authority and to seek review by the Board and the courts:
- a. Those persons entitled to notice under subsection 12.23.2;
 - b. Other persons who demonstrate to the approval authority, under the Rules of Procedure, that the action may affect some substantial right of those persons.
- (G) 12.25 HEARINGS.
- (H) 12.25.1 (A) The Hearings Officer or a quorum of the Planning Commission, as is appropriate, shall conduct a hearing on the application within 90 days of the initiation thereof, under subsection 12.21.2, unless such time is extended with the written consent of the one initiating the action.
- (B) Three members of the Planning Commission shall constitute a quorum in acting on applications under subsections 8.16(B)(1) and (2).

- (I) 12.25.2 No action shall be heard unless a staff report is completed and available at the office of the Planning Director at least five days prior to the date fixed for hearing. A copy of the report shall be mailed, upon completion, to the one initiating the action and to the Planning Commission or Hearings Officer, as appropriate. In addition, a copy shall be furnished to other persons who request the same upon payment of the fee provided for under subsection 12.10.h. The staff report may be supplemented only at the hearing.
- (J) 12.26 FINDINGS OF FACT; CONCLUSIONS.
- In all cases, the Planning Commission or Hearings Officer shall cause written findings of fact and conclusions, based upon the record, to be filed with decisions. The findings shall specifically address the relationships between the application and the factors listed in subsections 12.25.3 and 12.25.31, to the extent they form the basis for decisions.
- (K) 12.27 DECISIONS.
- The Planning Commission or Hearings Officer may approve an application as submitted, deny it, or approve it with such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to obtain the objectives of subsection 12.27.3.b.
- (L) 12.27.1 In the case of an action by the Planning Commission, a decision to approve a zone change, community service use or conditional use, shall be by majority vote of the entire Commission.
- (M) 12.27.2 The Planning Commission or Hearings Officer shall render a decision upon the close of the hearing or at the time to which the matter is continued. Within ten days after a decision is made, it shall be reduced to writing, signed by the Chairperson of the Planning Commission or by the Hearings Officer, filed by the Planning Director with the Clerk of the Board, and mailed to those persons entitled to mailed notice under subsection 12.23.2, and to such other persons who request the same.
- (N) 12.27.4 An alternative zoning classification may be substituted by the Planning Commission or Hearings Officer for the proposed action if the alternative classification is in the same general classification (i.e., Residential, Commercial, Industrial), and the hearing notice included notification of this possibility as provided by subsection 12.23.1.

(O) 12.28 RECORD OF PROCEEDING.

A verbatim recording shall be made of the proceedings before the Planning Commission and Hearings Officer for any action appealed to the Board. In the absence of such recording, the Board shall conduct a de novo hearing on the appeal.

(P) 12.29 EX PARTE CONTACT.

The members of the Planning Commission and the Hearings Officer shall not:

- a. Communicate with any party or party's representative in connection with any action except upon notice and opportunity for all parties to participate; or
- b. Take notice of any communication, report, staff memorandum, or other material prepared in connection with an action and not part of the record, unless the parties are afforded an opportunity to be heard on the material so noticed.

- (Q) 12.29.1
- a. In the event a member of the Planning Commission or the Hearings Officer has any pre-hearing ex parte contact with a party, the member or Officer shall disclose the occurrence and substance of such contacts and the persons involved, in a statement of capacity to hear.
 - b. The statement shall also indicate any interest or independent knowledge of the member or Officer. The statement shall be made at the beginning of the hearing and placed in the record.
 - c. Whether the ex parte contact, independent knowledge or interest will result in the member's or Officer's disqualification to act on that matter shall be publicly decided by the member or Officer, and placed in the record.

- (R) 12.29.2
- a. Any party to an action may, in relation to such action, challenge the impartiality of any member of the Planning Commission or of the Hearings Officer. A challenge must state, by affidavit, the facts relied upon by the submitting party relating to the member's or Officer's alleged bias, prejudgment, or personal interest, or other facts from which the party has concluded that the member or Officer cannot participate in a decision in an impartial manner.
 - b. A written challenge must be delivered by personal service to the Planning Director and the member or Officer whose impartiality is challenged, not less than three days preceding the time set for public hearing.

- c. A challenge and the decision thereon by the challenged person shall be entered in the record of the action.

(S) 12.29.3 In the event a challenge is submitted under subsection 12.29.2, and the member of the Planning Commission or the Hearings Officer elects to participate in the action, the member or the Officer shall present a written statement of capacity to hear, as provided in subsection 12.29.1, which statement shall make reference to the challenge and include the reasons why the member or the Officer has elected to participate in the action.

(T) 12.30 NOTICE TO BOARD OF DECISIONS.

The written decision of the Planning Commission or the Hearings Officer shall be submitted to the Clerk of the Board by the Planning Director not later than ten days after the decision is announced. the Clerk shall summarize each decision on the agenda for the next Board meeting on planning and zoning matters for which notice can be given under the Charter.

(U) 12.31 NOTICE OF REVIEW.

Decisions of the Planning Commission or the Hearings Officer shall be final at the close of business on the tenth day following submittal of the written decision to the Clerk of the Board under subsection 12.30, unless:

- a. A notice of review from a party is received by the Planning Director within ten days after the decision has been submitted to the Clerk of the Board under subsection 12.30;
or
- b. The Board, on its own motion, orders review under subsection 12.32.

(V) 12.33.1 Unless otherwise provided by the Board under subsections 12.33.12 and 12.33.2, review of the action shall be confined to the record of the proceeding below, which shall include:

- a. All materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered by the Planning Commission or Hearings Officer;
- b. All materials submitted by the Planning Director with respect to the proposal;
- c. The transcript of the hearing below;
- d. The findings and decision of the Planning Commission or Hearings Officer, and the Notice of Review, when applicable.

(W) 12.33.21 "De novo hearing" means a hearing by the Board as if the action had not been heard by the Planning Commission or Hearings Officer, and as if no decision had been rendered, except that all testimony, evidence and other material received by the Planning Commission or Hearings Officer shall be included in the record.

(X) 12.34 NOTICE OF BOARD HEARING.

Notice of Board hearing shall be given in the same manner as required for hearings by the Planning Commission and Hearings Officer on actions. The Board may continue a hearing. Unless otherwise provided by the Board, no additional notice shall be given of a continued hearing if the matter is continued to a time certain.

(Y) 12.36 BOARD DECISION.

The Board may affirm, reverse or modify the decision of the Planning Commission or Hearings Officer and may grant approval subject to such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to achieve the objectives of subsection 12.27.3.b.

(Z) 12.38.3 Failure to (a) file a notice of appeal within the time limit prescribed by subsection 12.38; or (b) pay the required fee under subsection 12.38.2, shall be a jurisdictional defect and shall preclude review by the Hearings Officer.

(AA) 12.38.4 On receipt of a notice of appeal, the Planning Director shall schedule a hearing on the agenda for the next meeting of the Hearings Officer, for which notice can be given pursuant to subsection 12.38.5.

(BB) 12.38.5 Notice of hearing on an appeal filed under subsection 12.38 shall be as required by subsections 12.23, a., b., c., e., f., and 12.23.2.a.

(CC) 12.39 PROCEDURE ON APPEAL.

Except as otherwise provided in subparts a., b., and c., of this subsection, proceedings before the Hearings Officer on matters appealed under subsection 12.38, and appeals therefrom to the Board of County Commissioners, shall be conducted according to the provisions of subsections 12.25 through 12.38.5.

a. A hearing before the Hearings Officer on a matter appealed under subsection 12.38 shall be limited to the specific grounds relied on for reversal or modification of the decision in the notice of appeal.

- b. The provisions of subsection 12.25.3 and 12.25.31 shall not apply to hearings on appeals filed under subsection 12.38.
- c. The findings adopted by the Hearings Officer shall specifically address the relationships between the grounds for reversal or modification of the decision as stated in the notice of appeal and the criteria on which the Planning Director's decision was required to be based, pursuant to ordinance.

SECTION 37 REPEAL OF POSTING NOTICE PROVISION FOR ORDINANCE NO. 100 TEXT AMENDMENT.

Subpart b. of subsection 12.42.1 of Ordinance No. 100 is repealed.

SECTION 38 AMENDMENTS DESIGNATING HEARINGS OFFICER TO ACT ON VARIANCES IN PLACE OF BOARD OF ADJUSTMENT.

Subsection 12.45 is amended to change "Board of Adjustment" to "Hearings Officer".

SECTION 39 AMENDMENT DESIGNATING HEARINGS OFFICER TO ACT ON OFF-PREMISE DIRECTIONAL SIGN VARIANCES IN PLACE OF BOARD OF ADJUSTMENT.

The following subparts of subsection 12.616 of Ordinance No. 100 are amended to read:

- (a) The Hearings Officer may authorize a variance to allow existing or new off-premise directional signs after a public hearing and upon finding that:

(Subparts 1, 2, and 3, and 3.a., b., and c., are unchanged.)
- (b) The Hearings Officer may authorize an existing outdoor advertising sign to remain beyond the time specified by 12.613, upon a finding that the removal of the sign would create a continuing and substantial financial hardship to the owner of the property upon which the sign is located. Such signs shall be removed within 30 days from transfer of title to the property or such earlier date as is specified by the Hearings Officer.
- (c) In granting a variance, the Hearings Officer may attach thereto such more restrictive conditions regarding the location, character, design, size, time allowed to exist, and other features of the sign as are deemed to be in the public interest and necessary to assure compatibility with the surroundings.

SECTION 40. AMENDMENT DESIGNATING PLANNING DIRECTOR TO ACT ON TEMPORARY PERMIT APPLICATIONS, IN PLACE OF BOARD OF ADJUSTMENT.

Subsection 12.71, subpart 12.71.f, and subsection 12.71.1 of Ordinance No. 100 are amended to change "Board of Adjustment" to "Planning Director".

SECTION 41. AMENDMENT DESIGNATING HEARINGS OFFICER TO ACT ON HEALTH HARDSHIP TEMPORARY PERMIT APPLICATIONS IN PLACE OF BOARD OF ADJUSTMENT.

Subsections 12.72, 12.72.1, 12.72.2, and 12.72.3 of Ordinance No. 100 are amended to change "Board of Adjustment" to "Hearings Officer".

SECTION 42. AMENDMENT RELATING TO AIRPORT LANDING FIELD HEIGHT LIMIT VARIANCES.

Subsection 12.45 of Ordinance No. 100 is amended by adding the following subsections:

- 12.45.2 VARIANCES FROM LANDING FIELD HEIGHT LIMITATIONS. In acting on an application for a variance from the height limitations of the Airport Landing Field District, under subsection 6.106(A), the approval authority shall consider statements from the Federal Aviation Administration and the Port of Portland as to the effect of the variance on the operation of air navigation facilities or the safe and efficient use of navigable air space.
- 12.45.3 In the event a variance is granted from the height limitation of subsection 6.106(A), a condition of such action shall be that such markings or lights shall be installed and maintained at the owner's expense, as are necessary to indicate to aircraft operators the presence of such structure or natural growth.

SECTION 43. AMENDMENTS CHANGING TO HEARINGS OFFICER UNDER FEE SCHEDULE.

Section 13.00 of Ordinance No. 100 is amended as follows:

- (A) Subsection 13.01: Change title from "HEARINGS COUNCIL HEARINGS" to "ACTION PROCEEDINGS".
- (B) Subsection 13.01(d): Change to "Other Contested Cases".
- (C) Add subsection 13.01(f): "Variance under subsection 8.16(B)(1), 100.00."
- (D) Add subsection 13.01(g): "Health hardship temporary permit under subsection 8.16(B)(2), 100.00."
- (E) Repeal subsection 13.02. (Board of Adjustment Hearings.)

SECTION 44. PERMITS PRIOR TO ORDINANCE NO. 205.

Section 11.00 of Ordinance No. 100 is amended to add the following subsection:

11.10 A building or structure for which a building permit was issued prior to the effective date of Ordinance No. 205 shall be permitted to be constructed or erected in accordance with such permit.

ADOPTION.

This Ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, shall take effect on July 26, 1979, according to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 26th day of June, 1979, being the date of its eighth reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

By Donald S. Clark

APPROVED AS TO FORM:

JOHN B. LEAHY, County Counsel
for Multnomah County, Oregon

By Laurence Kressel

Laurence Kressel
Deputy County Counsel