

ARTICLE 1

ADMINISTRATIVE PROVISIONS

SECTION 1.110 TITLE

This Ordinance shall be known as the "Monroe Land Use Development Code."

SECTION 1.120 PURPOSE

The purpose of this Code is to establish standards and procedures for the orderly development of land within the City of Monroe in conformance with the Monroe Comprehensive Plan, to protect property rights, provide due process of law and to promote the public health, safety and welfare of the citizens of Monroe.

SECTION 1.130 COMPLIANCE STANDARDS

- (1) A property may be used and a structure or part of a structure may be constructed, altered, occupied or used only as this Code permits.
- (2) No property area, yard, off-street parking area, off-street loading area or other open space existing on or after the effective date of this Code shall be reduced below the minimum required for it by this Code unless authorized by the City.
- (3) No property area, yard, off-street parking area, off-street loading area, or other open space shall be used as the requirement for another property or use, except as provided for in this Code.

SECTION 1.140 REGULATION COMPLIANCE

In addition to the regulations contained herein, all proposed developments within the City shall comply with the following regulations:

- (1) The Monroe Comprehensive Plan.
- (2) Adopted Maps or Development Plans.
- (3) Oregon Revised Statutes, Chapter 227, City Planning and Zoning.
- (4) Oregon Revised Statutes, Chapter 197, Comprehensive Land Use Planning Coordination.
- (5) Oregon Administrative Rule, Chapter 660, Rules on Land Use Planning.
- (6) Oregon Revised Statutes, Chapter 92, Subdivisions and Partitions.
- (7) Oregon Revised Statutes, Chapter 209, County Surveyors and the Recording requirements of the Benton County Surveyor.
- (9) All other applicable regulations provided by law.

No person shall develop lands within the City without having complied with the applicable provisions of this Code and the applicable provisions of county, state or federal law.

SECTION 1.150 INTERPRETATION

Where the conditions imposed by any provision of this Code are less restrictive than comparable conditions imposed by any other provisions of this Code or any other city ordinance, state law or federal law; the provisions which are more restrictive shall govern.

SECTION 1.160 VALIDITY

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

SECTION 1.170 ADMINISTRATION

- (1) The City shall maintain authority over all activities within the city limits as provided by law and the City Charter. All powers of the City shall be vested in the City Council unless otherwise provided in the City Charter.
- (2) The City Planner, under the direction of the City Council, shall have the authority and duty to enforce the provisions of this Code and all related City, County, State or Federal regulations. An Administrative Decision is a decision by the City Planner, such as a Property Line Adjustment, with notification of actions taken provided to the Planning Commission and City Council.
 - (a) The City Planner shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code.
 - (b) All correspondence and inquiries related to this Code shall be directed to the City Planner at the Monroe City Hall, 664 Commercial Street, Monroe, Oregon 97456.
- (3) The Planning Commission shall have the authority to review and approve all Quasi-Judicial actions, such as Conditional Uses, Variances and Subdivisions, and Limited Land Use actions, such as Site Plan Reviews and Partitions under the provisions of this Code.
- (4) The City Council, with recommendation from the Planning Commission, shall have the authority to review and decide all Annexations, Vacations, Zone and Plan Map amendments or text amendments to this Code.

SECTION 1.180 ENFORCEMENT

- (1) **Remedy.** A structure located, constructed, maintained, repaired, altered or used in violation of this Code, or land used in violation of this Code, shall constitute a nuisance. The City may, as an alternative to other remedies that are legally available for enforcing this Code, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

(2) **Procedures.**

(a) Upon a determination of a violation of this Code, the City shall notify the property owner that a violation exists. A defect in the notice of violation shall not prevent the enforcement of this Code. Such notice shall specify, with reasonable certainty, the following:

1. The location and nature of the violation.
2. The provision or provisions of this Code which have been violated.
3. That immediate enforcement will be sought unless the violation is corrected or corrective action has been initiated within ten (10) days.

(b) If necessary, and upon direction from the Mayor or City Council, the City Attorney shall take such legal action as required to insure compliance with this Code unless:

1. It has been demonstrated to the satisfaction of the City that the violation has been corrected or removed or;
2. A court of competent jurisdiction has stayed enforcement pending the outcome of a proceeding before it, concerning the violation.

(3) **Penalty.** A violation of this Code may be the subject of criminal, civil, or other sanctions authorized by State Law or City Ordinances.

(a) In addition to, or in lieu of criminal actions, a violation of this Code or a permit issued herein may be the subject of a civil penalty to be recovered by a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.

(b) Upon conviction of a civil violation of this Code, a fine up to \$1,000 may be imposed. Each day such violation continues beyond the ten (10) day Notice of Violation first provided by the City Planner, will be considered a separate offense.

SECTION 1.190 FEES

Application and review fees established by resolution of the City Council shall be paid to the City at the time of submitting an application and shall be in addition to other fees established by county, state or federal regulations.

SECTION 1.200 DEFINITIONS

(1) **Rules of Construction.** The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Code:

Tense: Words used in the present tense include the future tense.

Number: Words used in the singular include the plural, and words used in the plural include the singular.

Shall and May: The word "shall" is mandatory; the word "may" is permissive.

Gender: The gender may include the feminine, masculine and neuter which can mean any of those forms.

Headings: If there is any conflict or inconsistency between the heading of an article, section or paragraph of this Code and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

(2) **Definitions:** The words and phrases used in this Code shall the following meaning:

Abut: Contiguous to or immediately join. For example, two lots or parcels with a common property line are considered to be abutting.

Access: The way or means by which pedestrians, bicycles and vehicles enter and leave property.

Accessory Structure or Accessory Use: A structure or use incidental, appropriate and subordinate to the main use of property and located on the same property as the main use.

Adverse Impact: An impact that is detrimental to or contrary to the desired effect or so opposed as to cause harmful interference. A negative effect that is detrimental to the public welfare or injurious to people, property or the community environment.

Alley: A narrow public way that affords a secondary means of access to property.

Alteration: Any change, addition or modification in construction or occupancy.

Basement: A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average level of the adjoining ground.

Bed & Breakfast Facility: A dwelling where travelers are lodged for sleeping and dining purposes under the provisions of local or state law governing such facilities.

Boarding and/or Rooming House: A building where lodging, with or without meals, is provided for compensation, but shall not include Residential Care Homes or Child Care Homes.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Height: The vertical distance from the average adjacent building grade to the highest point of the roof.

Building Inspector: An employee of Benton County with duties and authority to enforce all building codes and the provisions of this Code in accordance with **Section 2.200, Building Permits.**

Building Line: A line on a plat or map indicating the limit beyond which buildings or structures may not be erected. Also referred to as the Setback line. The area between the building or setback line and the property line is referred to as the "yard."

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbaria, crematories, mausoleums, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

Child Care Home: Any residence, establishment or place, including day-care, nursery schools or private kindergartens certified to care for (12) or less resident children under the age of thirteen (13) years for the purpose of being given care, supervision or training apart from a parent or legal guardian.

Church: A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

City: The City of Monroe, Oregon.

City Planner: The primary non-elected officer of the City appointed by the City Council responsible for all day to day administrative activities and decisions subject to Council approval. The City Planner may request other City officers or staff to undertake specialized duties on behalf of the City.

Clinic: Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts, including a dispensary in each such building to handle only merchandise of a nature customarily prescribed by occupants in connection with their practices.

Clinic, Small Animal: A business establishment in which veterinary services are rendered to small domestic pets on an out-patient basis with no overnight boarding allowed.

Club: A facility owned or operated for a social, educational, or recreational purpose, to which membership is required for participation and which is neither operated primarily for profit nor to render a service which is customarily carried on by a business.

Commission: The Planning Commission of the City of Monroe, Oregon.

Common Wall: Common wall construction in a building having one or more walls attached to and in common with another building.

Community Center: A facility owned and operated by a governmental agency or a non-profit community organization which is open to any resident of the neighborhood in which the facility is located or to any resident of the City or surrounding area, provided that the primary purpose of the facility is for assembly, and provided further that no permanent commercial eating or drinking facilities shall be operated on the premises.

Comprehensive Plan: A City Land Use Plan for the guidance of growth and development of the City, including modifications or refinements which may be made from time to time.

Council: The City Council of the City of Monroe, Oregon, which is the governing body of said City.

Deciding Body: The City Planning Commission or City Council responsible for making a decision on an application.

Declarant: The person who files a declaration under ORS 92.075.

Declaration: The instrument described in ORS 92.075 by which the subdivision or partition plat was created.

DLCD: Department of Land Conservation and Development.

Dwelling, Multi-Family (Apartments): A building or portion thereof designated for occupancy by three (3) or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family: A detached building, other than a manufactured home, designed for and occupied by not more than one family.

Dwelling, Two-Family (Duplex): A building containing two dwelling units occupied by not more than two (2) families living independently of each other.

Dwelling Unit: A single unit providing complete independent living facilities, designed for occupancy by one (1) family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Easement: A grant of the right to use a strip of land for specific purposes.

Fact: Something that has actual existence, an actual occurrence or a piece of information presented as having objective reality. In the Land Use Hearing Process, facts are the information submitted as evidence that is relied upon in making a decision on a land use issue. The justification for the decision shall be based on the criteria, standards and facts set forth in the hearing.

Family: Any persons related by blood, marriage, legal adoption or legal guardianship living together in one dwelling unit; or a group of not more than five (5) unrelated persons living together in one dwelling unit.

Fence, Sight-Obscuring: A continuous fence, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the other side from view.

Floor Area: The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the vertical projection of the roof or floor above.

Floor Elevation: The height above mean sea level of the first floor of a building that is not a basement.

Garage, Private: A detached accessory building or portion of a main building for the parking of automobiles of the occupants of the premises.

Garage, Public: A building other than a private garage used for the care, repair, parking or storage of automobiles.

Grade (Ground Level): The average elevation of the finished ground level at the centers of all walls of a building, except that if a wall is parallel to and within five (5) feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground level.

Half Story: That part of any building wholly or partly within the roof frame and not occupying more than two-thirds (2/3) of the floor area immediately below it.

Height Of Building: The vertical distance from the highest grade to the highest point of the roof.

Home Occupation: A lawful occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence.

Home Business: A lawful occupation approved by the Planning Commission that is carried on by a resident of a dwelling that has some outward appearance or character of a commercial venture.

Hotel/Motel: A building or group of buildings used for transient lodging containing more than 5 guest rooms without guest room cooking facilities used primarily for sleeping purposes. On-site restaurant facilities may also be provided.

LCDC: Land Conservation and Development Commission.

Loading Space: An off-street space or berth on the same lot with a building for the temporary parking of a vehicle while loading or unloading, and which abuts upon a street, alley or other appropriate means of access.

Lot: A unit of land that is created by a subdivision of land, though it may include the term "parcel" to generally describe any property.

LUBA: The State of Oregon Land Use Board of Appeals.

Manufactured Home: A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling and is not designated as a "recreational vehicle" or prefabricated structure as defined by the State or Oregon.

Nonconforming Structure Lot Or Use: A lawful existing structure, lot, or use, at the time this Code becomes effective which does not conform to the standards of the zone or district in which it is located. See Section 4.080.

OAR: The State of Oregon Administrative Rules.

Occupancy: The purpose for which a building, or part of a building, is used or intended to be used.

ORS: The State of Oregon Revised Statutes.

Owner: An individual, association, partnership, or corporation having legal or equitable title to land, other than legal title held for purpose of security only.

Parcel: A unit of land that is created by a partitioning of land, though it may include the term "lot" to generally describe any property.

Parking Space: An off-street enclosed or unenclosed surfaced area, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile in conformance with the parking diagram contained on the "Design Standards Diagram", of this Code. All parking shall be connected to a street by a surfaced driveway that affords ingress and egress for automobiles.

Partition: Either an act of partitioning land or an area or tract of land partitioned.

Partition Land: To divide land into two or three parcels of land within a calendar year, but does not include:

A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots.

An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning Code.

A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan.

Pedestrian Way: A right-of-way for pedestrian traffic.

Person: Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government or any group of combination acting as a unit.

Planning Commission: The Planning Commission of the City of Monroe.

Plat: A final subdivision plat, replat or partition plat.

Partition Plat: A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

Subdivision Plat: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

Replat: The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

Professional Office: An office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors or persons engaged in similar occupations.

Property: A lot or parcel. A single unit or tract of land which, at the time of application for a building permit, is designated by its owner or developer as a site to be used, developed or built upon as a unit, under single ownership or control.

Corner Property: A lot or parcel that abuts streets on at least two adjacent sides other than an alley, provided the angle of intersection of the adjacent streets does not exceed 135°.

Through Property: A lot or parcel having frontage on two parallel or approximately parallel streets other than alleys.

Flag Property: A lot or parcel that has access to a right-of-way by means of a narrow strip of land.

Property Line: The legal boundary of a lot or parcel. The division line between two units of land.

Front Property Line: The property line separating the property from a street other than an alley; and in the case of a corner property, the shortest property line along a street or over which primary vehicular access is gained other than an alley.

Rear Property Line: The property line that is opposite and most distant from the front property line.

Side Property Line: Any property line not a front or rear property line.

Side Street Property Line: Any property line abutting a street that is not a front or rear property line.

Property Line Adjustment: The relocation of a common property line between two abutting properties.

Property Width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

Public And Semi-Public Building or Use: A building or use owned or operated by a religious, charitable, or other nonprofit organization; a public utility; or any social agency such as a church, school, auditorium, meeting hall, library, art gallery, museum, fire station, utility substation, cemetery, park, playground, community center or similar use.

Residential Density: The number of dwelling units per acre of net land area excluding street right-of-ways.

Right-Of-Way: A continuous strip of land between property lines allowing a right of passage usually containing a street, railroad or other passageway.

Roadway: The portion of a street right-of-way developed for vehicular traffic.

Sale or Sell: Every disposition or transfer of land and improvements in a subdivision or partition or an interest or estate therein.

Service Station, Automobile: A place or station designed and used primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhauling.

Sign: Any writing (including letters, words or numerals); pictorial representation (including murals, illustrations or decorations); emblem (including devices, symbols or trademarks); flag (including banners or pennants); identification displays (including objects, inflatables or balloons); or any other device used to inform, attract attention or advertise that is visible from a public right-of-way.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling above. (See basement).

Story, Half: Any basement or cellar, except as provided in this Chapter, which has less than six (6) feet of its height above grade.

Street or Road: A public or private way that is created to provide vehicular ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road," "highway," "lane," "drive" "avenue," "alley" or similar designations.

Arterial: A street of considerable continuity which is primarily a traffic artery for interconnection between large areas.

Collector: A street supplementary to the arterial street system and a means of interconnection between arterials; used for through traffic and access to small areas.

Cul-de-sac: A short dead-end street terminated by a vehicular turnaround.

Half Street: A portion of the width of a street, usually along the edge of a land division, where the remaining portion of the street could be provided in another tract.

Frontage Access Street: A minor street, protected from through traffic, providing access to abutting properties that is parallel and adjacent to a major arterial street.

Local Street: A street intended primarily for access to abutting properties.

Structural Alteration: Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders or structural change in the roof or in the exterior walls.

Structure: That which is built or constructed, and edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Subdivide Land: To divide an area or tract of land into four or more lots within a calendar year.

Subdivision: Either an act of subdividing land or an area or tract of land subdivided.

Tentative Plan: A tentative plan is the application, supplemental data and map showing the general design of the proposed subdivision or partition, submitted to the City for approval under the provisions of ORS 92 and Section 2.320 of the Monroe Development Code.

Use: The purpose for which land or a structure is put into service, employed, occupied or maintained.

Vacation: The sale or granting of sole ownership of public property to a property owner or abutting property owners where the property is no longer needed for public purposes; including easements, right-of-ways and other public lands. See Section 2.900.

Yard: A required open space area measured from the property line where no buildings or structures are permitted.

Yard, Exterior: A yard adjacent to a street.

Yard, Front: An exterior yard adjacent to a street. In the case of a corner property, the yard adjacent to the shortest property line along a street or over which primary vehicular access gained, other than an alley.

Yard, Interior: A yard adjacent to a property line.

Yard, Rear: An interior yard opposite the front yard.

Zero Property Line: A lot or parcel line having no setback that may equally divide a common wall in a building.

ARTICLE 2

APPLICATION PROCEDURES

SECTION 2.110 PRE-APPLICATION STAFF CONSULTATION

An applicant may request an informal review of a proposal prior to application to determine the general feasibility of the proposal. There are no fees for an informal review. The applicant should submit a brief description and a sketch drawing of the proposed development to the City for preliminary consultation. The City will inform the applicant of the procedural requirements and any conditions and policies of public agencies that may be pertinent to the proposal. The applicant may proceed with an application or the City may suggest a pre-application conference with City Staff and affected agencies to assist the applicant in preparing the application.

SECTION 2.120 PRE-APPLICATION AGENCIES CONFERENCE

Within 30 days after the pre-application consultation, the City Planner may schedule a pre-application conference with the applicant and representatives of the City and other affected public and private agencies to further clarify the conditions and requirements necessary in the preparation of the application.

SECTION 2.130 APPLICATION PROCEDURE

Following preliminary consultation and the pre-application conference, when applicable, the applicant shall prepare an application together with other supplementary data required to clearly describe the proposed development and the decision requested of the City. Applications shall be submitted to the City in advance to provide adequate notice as provided for in this Code and below:

- (1) Applications, Petitions and Appeals provided for in this Code shall be made on forms prescribed by the City. Forms are available at the Monroe City Hall.
- (2) Applications shall be accompanied by narrative descriptions, a site plan, building plans, maps, specifications and any other information that clearly describe the request and the applicable City Code sections that may apply to the request.
- (3) A consolidated procedure shall be utilized by the City for applications that require more than one approval procedure for a development project. The City will identify and address all of the procedures concurrently and will utilize the most comprehensive procedure and decision process of those required in the application. The fee for the most comprehensive procedure shall be charged and all other fees charged at 50% of the established rate.
- (4) The specific requirements and decision process for each application procedure
- (5) Applications shall include the application form, site plan together with all documents, evidence and supplemental information relied upon by the applicant. A reproducible copy of the application materials and maps shall be provided by the Applicant. A Review or Hearing will be scheduled within 30 days from the date the Application is deemed complete.

- (6) All Applications shall be available to the public and notifications will be mailed by the City twenty (20) days prior to the review or hearing meeting.
- (7) An application and review fee shall accompany the application request in accordance with the provisions of Section 1.190.
- (8) Staff reports used at the review or hearing shall be available at least seven (7) days prior to the review or hearing.
- (9) The City shall comply with ORS 227.178 and take final action on an application, including resolution of all local appeals, within 120 days after the application is deemed complete. If an application is incomplete, the City shall notify the applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete if the applicant supplies the missing information, or if the applicant refuses to submit the missing information, it shall be deemed complete on the 31st day after the application is received by the City.

If an application is complete when first submitted or if the applicant submits the requested missing information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

- (10) The 120 day period specified in subsection (9) may be extended for a reasonable time at the request of the applicant.
- (11) The 120 day period specified in subsection (9) does not apply to an amendment to this Code.
- (12) The Applicant bears the responsibility and burden of proof for the requested action. The greater the potential impact, the more justification must be shown.
- (13) The Application and the decision of the City shall be maintained by the City in a Record File of the Application. Notice of Decision shall be given the Applicant and other participants in the proceedings as specified in Section 3.300.
- (14) Expiration. Approved applications shall be void 2 years after the date of approval unless a building permit has been issued and substantial construction pursuant thereto has taken place, unless a specific time period was specified as a condition of approval. However, upon written request, the City may extend authorization for 1 year with a maximum of two 1 year extensions upon acceptance of reasons for the delay. After 4 years the application will be reconsidered by the City and may be denied.
- (15) Limitation. No request for a land use application shall be considered by the City within a one-year period immediately following a denial of such request, except the City may consent to a new hearing, if in the opinion of the Deciding Body, new evidence or a change of circumstance warrant it.

SECTION 2.140 APPLICATION SITE PLAN

Applications requiring a site plan shall include a Site Plan Drawing on an 11 by 17 inch or 8½ by 11 inch sheet size unless a larger size is needed to present the required information. The Plan shall be drawn to scale, and shall indicate clearly and with full dimensioning the following applicable information for all existing and proposed development. It is understood that some of the requested information may not apply to every application.

- (1) The names of the owner(s) and applicant if different.
- (2) The property address or geographic location and the Assessor Map number and Tax Lot number.
- (3) The date, scale and northpoint.
- (4) A vicinity map showing properties within 250 feet. An Assessor Map, with all adjacent properties, is adequate.
- (5) A Site Plan with property dimensions.
- (6) The location, size, height and uses for all existing and proposed buildings.
- (7) Walkways, surfaced areas, yards, open space and areas to be landscaping.
- (8) Walls and fences: location, height and proposed materials.
- (9) Off-street parking: location, number of spaces, dimensions of parking area and internal circulation patterns.
- (10) Access: pedestrian, vehicular, service, points of ingress and egress.
- (11) Signs: location, size, height and means of illumination.
- (12) Loading: location, dimension, number of spaces, internal circulation.
- (13) Lighting: location, type (pole, building, ground, etc) and shielding devices.
- (14) Existing and proposed streets, dedications and improvements.
- (15) Topographic features including existing and proposed grades, significant trees over 6 inches in diameter at 4-feet above grade, and other significant vegetation.
- (16) Water systems, drainage systems, sewage disposal systems and utilities.
- (17) Drainage ways, water courses, flood plain and wetlands.
- (18) The estimated number of people that will occupy the site including family members, employees and customers.

- (19) The estimated number of generated trips per day from each mode of travel by type: employees, customers, shipping, receiving, etc.
- (20) The proposed time of operation, where appropriate. Including hours of operation, days of the week and number of work shifts.
- (21) Identification of the type and extent of anticipated emissions, potential hazards or nuisance characteristics generated by the proposed use. Misrepresentation or omission of required data may be grounds for denial or termination of a Certificate of Occupancy.
 - (a) Uses which possess nuisance characteristics or those potentially detrimental to the public health, safety and general welfare of the community including, but not limited to; noise, water quality, vibration, smoke, odor, fumes, dust, heat, glare or electromagnetic interference, may require additional safeguards or conditions of use as required by the Planning Commission or City Council.
 - (b) All uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction. Prior to approval of a land use decision, evidence shall be submitted to the City indicating that the proposed activity has been approved by all applicable regulatory agencies.
- (22) A construction schedule and development phasing schedule.
- (23) Such other data as may be necessary to permit the Planning Commission to make the required findings.

SECTION 2.150 RECORD FILE

The City shall maintain an official Record File of each application containing all relevant data, drawings, dates, notices, hearings, postponements, continuances, decisions, and appeals pertaining to the application.

- (1) Minutes of all meetings, reviews and hearings shall record the substance of all issues before the review or hearing body including the criteria, factual evidence and the justification for the decision as specified in Article 3.
- (2) Proceedings may be recorded either stenographically or electronically although a verbatim record is not required. Minutes may be summarized from the transcript or tape.
- (3) Testimony may be transcribed at the expense of the requesting party, if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs as authorized by state law.
- (4) The staff report and recommendation shall be included in the Record File.

- (5) The review or hearing body shall, where practical, retain as part of the record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the Record file until after all appeal periods have expired, at which time the exhibits may be released.
- (6) The public shall have access to the Record File of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

SECTION 2.200 BUILDING PERMITS

- (1) Building Permits are issued by the Benton County Building Department. The Benton County Building Department also provides all construction administration and inspection services.
- (2) Building Permits may be issued for Permitted Uses not requiring a Review or Public Hearing by the City Planning Commission or City Council.
- (3) Application for Building Permits requiring a land use decision including: Site Plan Reviews, Conditional Uses, Variances, Nonconforming Uses, or Zone Change Amendments shall not be approved by the City prior to a decision on the land use issue or until the appeal period, as specified under Section 3.700, has expired.
- (4) Each application for a building permit shall comply with the latest adopted edition of the "State of Oregon Structural Specialty Code" or the "CABO" Council of American Building Officials One and Two Family Dwelling Code. Applications shall describe the work and proposed use and occupancy and include site and building plans, drawn to scale, construction details, specifications, computations and such other information as may be required by the Benton County Building Official.

SECTION 2.300 LAND DIVISIONS

SECTION 2.310 PROPERTY LINE ADJUSTMENTS

- (1) **Purpose.** A property line adjustment is a relocation of a common property line between abutting properties when both parties agree. A property line adjustment shall not create an additional lot or parcel, reduce a lot or parcel in size below the minimum size specified for the zone, or create a violation of development standards on either lot or parcel.
- (2) **Application.** A property line adjustment may be submitted for review by the City Planner without preliminary consultation, a land division conference, or a hearing where the adjustment complies with this Article.

- (3) **Information.** The applicant shall submit 2 copies of the proposed map of the property line adjustment together with other supplementary data required for recording or specified herein to the City for review and action.

SECTION 2.311 PROPERTY LINE ADJUSTMENT REQUIREMENTS

All property line adjustment maps shall contain the following information:

- (1) A map clearly and legibly drawn on a sheet size that is acceptable for recording by the County Surveyor, Clerk or Recorder. The scale shall be selected to fit the sheet size, but in all cases the scale selected shall be one inch equals ten (10) feet or a smaller scale that is even multiples of one (1) inch equals ten (10) feet (1"=20', 1"=30', etc.).
- (2) The title "Property Line Adjustment for _____," the date and northpoint.
- (3) Name and address of the record owner(s) of the property to be adjusted.
- (4) Assessor Map and Tax Lot numbers and approximate acreage or square feet of each property prior to and after adjustment.
- (5) The location and boundary dimensions and other information to accurately locate the existing and adjusted property lines.
- (6) Existing conditions for land within the properties to be adjusted:
 - (a) The locations, names and widths of existing streets.
 - (b) The location, width and purpose of existing easements.
 - (c) The approximate location of buildings, public and private utilities, drainage ways and other significant features that would affect development of the adjusted properties.

SECTION 2.312 DECISION CRITERIA

A Property Line Adjustment may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1) The adjustment will not create an additional unit of land.
- (2) The adjustment will not create a land-locked parcel.
- (3) The existing unit of land reduced in size by the adjustment complies with applicable City Ordinances and this Code and will not create a non-conforming lot or non-conforming development.
- (4) The adjustment shall comply with any previous Conditions of Approval attached to the properties to be adjusted.
- (5) The adjustment shall comply with all state and county recording requirements.

SECTION 2.313 DECISION PROCESS

- (1) A Property Line Adjustment does not require a Limited Land Use Decision, though notification shall be provided the Planning Commission and City Council. The City Planner may consider a Property Line Adjustment map at any time following submittal of the application.
- (2) If the proposed Property Line Adjustment is consistent with City land use standards, the City Planner may approve the map as submitted, approve with conditions or deny the request for noncompliance.

SECTION 2.314 PROPERTY LINE ADJUSTMENT FILING

- (1) The property to be adjusted shall be surveyed and monumented in accordance with applicable Sections of ORS Chapter 92.
- (2) Deeds or conveyances for all lots or parcels conforming to the approved property line adjustment shall be filed with the County Clerk.
- (3) Upon approval, the original survey map shall be signed by the City Planner. A signed copy shall be returned to the applicant and a signed copy maintained on file with the City. The original survey shall be forwarded to the County Surveyor for recording by the Applicant. If required conditions of approval are not met, the survey map shall not be signed and it shall be returned to the applicant with a letter stating the reasons for denial. The Applicant may modify the map for compliance with the required conditions or may file an Appeal to the Planning Commission within 15 days of decision in conformance with Section 3.700.
- (4) Copies of all recorded conveyances and filed surveys shall be provided to the City for inclusion in the Record File of the Application, in accordance with Section 2.150.

SECTION 2.320 SUBDIVISION OR PARTITION TENTATIVE PLAN

SECTION 2.321 SUBMISSION REQUIREMENTS

A land divider shall prepare a Tentative Plan together with improvement plans and other supplementary material as may be required to indicate the general idea and objectives of the project. The Applicant shall submit Tentative Plan and supplementary data to the City Planner following preliminary consultation as recommended in Sections 2.110 and 2.120.

SECTION 2.322 FORM AND SCALE

The Tentative Plan shall be clearly and legibly presented on an 11 by 17 inch or 8½ by 11 inch sheet size for review by the City unless a larger size is needed to present the required information. The final Plat size shall be as required by the County Surveyor, usually 18 by 24 inches in size. The Plan shall be drawn to a scale of 1 inch equals some multiple of 10 feet. (10 feet, 20 feet, 30 feet, 100 feet, 200 feet, etc.) The scale may be increased or decreased as necessary to fit the sheet size, but in all cases the scale to be used shall be in multiples of 1 inch equals 10 feet.

SECTION 2.323 GENERAL INFORMATION

The following information shall be provided on all Tentative Plans:

- (1) All information required by ORS 92 for a Tentative Plan including, but not limited to, the following.
- (2) No Tentative Plan shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land Platted is contiguous to and Platted by the same party that Platted the subdivision bearing that name or unless the party files and records the consent of the party that Platted the subdivision bearing that name. All Plats must continue the lot and block numbers of the Plat of the same name last filed. Subdivisions submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name that has previously used block numbers or letters.
- (3) Date, north arrow, and scale of drawing.
- (4) Appropriate identification clearly stating the map is a subdivision or partition Tentative Plan.
- (5) Location of the land division by section, township and range sufficient to define the location and boundaries of the proposed subdivision.
- (6) Names and addresses of the owner, applicant and surveyor.
- (7) The approximate acreage of the tract being subdivided or partitioned, and the size of proposed lots or parcels.

SECTION 2.324 EXISTING CONDITIONS INFORMATION

- (1) The names and addresses of all abutting owners of property.
- (2) The location, widths and names of both opened and unopened streets within or adjacent to the land division, together with easements, other right-of-ways and other important locational information such as section lines, corners, city boundary lines and monuments.
- (3) The location of all existing sewers, septic tanks and drainfields, water lines, storm drains, culverts, ditches and utilities, together with elevation data, on the site and on adjoining property or streets.
- (4) The elevations of all points used to determine contours; said points given to true elevation above mean sea level as determined by the City. The base data used shall be clearly indicated and shall be compatible to City datum if bench marks are not adjacent. The following intervals are required:

Contour Intervals

One Foot
Two Feet
Five Feet

Ground Slope

Up to 5%
Over 5% through 10%
Over 10%

Exception: The Planning Commission may approve slope indications for partitions by means of arrows or other suitable symbol together with not less than four spot elevations per acre evenly distributed for slopes of less than five percent (5%).

- (5) The location of at least one bench mark control point within the tract boundaries.
- (6) The location and direction of all on-site and off-site drainage, drainage channels, water courses and the location of all areas subject to flooding.
- (7) Natural features such as rock outcroppings, wetlands, wooded areas and isolated preservable trees. Lands that are wholly or partially within areas identified as wetlands shall be clearly delineated for review and permit by the Division of State Lands.
- (8) Existing uses on and adjacent to the property, including the location of all existing structures to remain on the property after the land division.
- (9) Zoning on and adjacent to the property to be divided.

SECTION 2.325 PROPOSED PLAN INFORMATION

- (1) A vicinity map clearly showing the relationship and connections of the proposed land division to surrounding developments, streets, storm drainage, sewer, septic tank and drainfield, water and utility services.
- (2) The location, width, name and approximate grade and curve radii of proposed street. The relationship of proposed streets to existing streets and any projected future streets shown on the City's Comprehensive Plan or Official Street Map. Streets proposed for public dedication and streets held for private use shall be clearly indicated and all reservations or restrictions relating to such private streets shall be included in the statements specified in Section 2.326.
- (3) The location, width, and purpose of existing and proposed easements.
- (4) The total acreage and the proposed land use for the land division including sites for special purposes or those allocated for public use.
- (5) The location and approximate dimensions of lots or parcels and the proposed lot or parcel numbers. Where large property divisions are proposed that may be re-divided in the future to smaller residential lots or parcels, the applicant shall provide a sketch plan showing the re-division configuration.
- (6) An outline of the areas proposed for partial recording of a final Plat and a time schedule for additional Platting if staged recording is proposed.

- (7) A general layout of all public utilities and facilities to be installed including provisions for connections and extensions beyond the proposed land division.
- (8) The proposed method of connection to all drainage channels located outside of the proposed land division and the proposed method of flood control (detention ponds, swales, etc.) and contamination protection (settling basins, separators, etc.).
- (9) Identification of all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.
- (10) Identification and layout of all special improvements. Special improvements may include, but are not limited to, signs, lighting, benches, mail boxes, bus stops, greenways, bike or pedestrian paths.

SECTION 2.326 ACCOMPANYING STATEMENTS

The Tentative Plan shall be accompanied by written statements from the applicant giving essential information regarding the following matters:

- (1) Identify the adequacy and source of water supply including:
 - (a) Certification that water will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or
 - (b) A bond, contract or other assurance by the applicant that a public water supply system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City Council.
- (2) Identify the proposed method of sewage disposal including:
 - (a) Certification that a sewage disposal system will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or
 - (b) A bond, contract or other assurance by the applicant that a sewage disposal system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City.
 - (c) In lieu of the above conditions, residential lots without access to a sewage disposal system may be created if a statement is provided by the applicant that no sewage disposal facility will be provided to the purchaser of any lot depicted on the Tentative Plan where Benton County or the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal. A copy of the statement signed by the applicant and endorsed by the City shall be filed by the applicant with the Real Estate Commissioner when the Plat is recorded. The applicant shall deliver a copy of the statement to each prospective

purchaser of a lot prior to signing the first agreement for sale of the lot. The owner/applicant shall obtain a signed receipt for the statement from the purchaser and send a copy of the receipt to the Commissioner and shall keep copies of such receipts on file in this state, subject to inspection by the Commissioner, for a period of three years after the date the receipt is taken.

- (3) Protective covenants, conditions and deed restrictions (CC&R'S) to be recorded, if any.
- (4) Identify all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.
- (5) Identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing. Identify required improvements that are proposed to not be provided and the reason why they are not considered necessary for the proposed land division.
- (6) A statement that the declarations required by ORS 92.075 on the final Plat can be achieved by the fee owner, vendor and/or the mortgage or trust deed holder of the property.
- (7) Proposed staged subdivisions or serial partitions shall be clearly identified on the application. A time schedule for future Platting shall also be submitted. The Planning Commission may require a specific time schedule for approval. All future Plats shall conform to the adopted ordinance requirements applicable at the time of Platting.

SECTION 2.327 SUPPLEMENTAL INFORMATION

Any of the following may be required by the City to supplement the Tentative Plan.

- (1) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction.
- (2) A detailed plan of the domestic water supply lines and related water service facilities.
- (3) A detailed plan of the sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways.
- (4) If lot areas are to be graded, a plan showing the nature of cuts and fill and information on the character of the soil.
- (5) Specifications and details of all proposed improvements.
- (6) Wetland delineation if identified as an existing condition in Section 2.324, Subsection (7).

SECTION 2.328 DECISION CRITERIA

A Tentative Plan may be approved by the Planning Commission. Approval shall be based upon compliance with the submittal requirements specified above and the following findings:

- (1) Any undeveloped portion of the proposed land division can be developed in accordance with City ordinances.
- (2) The proposed development and all adjoining land can be developed in accordance with this Code and City Ordinances.
- (3) The proposed street plan is in conformance with City standards and provides the most economic, safe and efficient circulation of traffic in relation to the existing City street system and future plans.
- (4) The proposed utility connections are available, adequate and provide the most efficient and convenient connections to the existing utility systems and the proposed utilities can be extended in the future to accommodate future growth beyond the proposed land division.
- (5) Special site features have been considered and utilized.
- (6) Drainageways are protected and required drainage facilities are provided in conformance with State erosion control regulations.
- (7) The extent of possible emission or nuisance characteristics are compatible with the land use zoning district, adjacent properties and the applicable standards of all regulatory agencies having jurisdiction.
- (8) Potential adverse impacts have been mitigated to the maximum extent possible.

SECTION 2.329 DECISION PROCESS

- (1) Upon receipt of an Application and Tentative Plan, the City shall furnish one copy of the Tentative Plan and supplementary material to other agencies known to be affected. Agencies notified shall be given 14 days to review the plan and submit written comments. Notification to the Division of State Lands for identified wetlands shall require 30 days for review in accordance with ORS 227.
- (2) A Land Division relating to a partition requires a "Limited Land Use Review" in conformance with Section 3.400. The "Limited Land Use Review" shall be conducted by the Planning Commission. A Limited Land Use Decision requires notification to owners of property within 100 Feet of the subject property with an opportunity to submit written comments at any time prior to the "Limited Land Use Review" decision.
- (3) The Planning Commission shall consider the Tentative Plan proposal and any written comments at the first regular meeting following the 14 day review period.

- (4) A public hearing shall be held by the Planning Commission on a Tentative Plan for any subdivision in accordance with Section 3.510 Quasi-Judicial Public Hearing Procedures.
- (5) If the Application includes a Variance request, the Tentative Plan and Variance will be considered together as provided in Section 2.130 (3) and the Decision Criteria for the Variance shall apply as specified in Section 2.600 (2).
- (6) The Planning Commission may continue the review or hearing for good cause.
- (7) If the proposed Land Division is consistent with the City land use standards, the Planning Commission may approve the Tentative Plan as submitted or as modified to achieve compliance.
- (8) If the proposed land division requires modification to certain features in order to comply with City land use standards, the Planning Commission may approve the Tentative Plan with specified conditions of approval to achieve compliance with the intent of City land use standards.
- (9) If the proposed land division does not comply with the City land use standards even with conditions of approval, the Planning Commission shall deny the request.
- (10) Approval of the Tentative Plan shall indicate approval of the final Plat if there is no change in the plan of the land division and if the applicant complies with the requirements of this Code and any conditions of approval specified by the Planning Commission.
- (11) The action of the Planning Commission shall be noted on two copies of the Tentative Plan and any attached documents describing conditions. One copy shall be returned to the applicant and the other shall be retained by the City.
- (12) A written record of the findings and action of the City shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant and other parties to the proceedings together with any conditions of approval for the proposed land division as specified in Section 3.600, Decision.
- (13) Following action on any subdivision by the Planning Commission, the City Council shall review and take action on the tentative plan.
 - (a) The City Council shall either:
 - (i) Confirm the action of the Planning Commission without a public hearing;
or
 - (ii) If he council feels further consideration is necessary, it shall hold a public hearing, per the hearing procedures as specified for the Planning Commission.

SECTION 2.330 SUBDIVISION OR PARTITION PLAT

SECTION 2.331 SUBMISSION REQUIREMENTS

The land divider shall cause the land division or any part thereof to be surveyed, monumented and a Plat prepared in conformance with the approved Tentative Plan. Any changes in the Tentative Plan shall be approved prior to preparation of the Plat. Approval may be granted by the City Planner for minor changes (lot dimensions or areas that conform to local standards) or the Planning Commission may review and approve changes that increase the number of lots by more than 10% of the original request or alter approved roadway configurations. The land divider shall submit the exact duplicate transparency and five prints of the completed Plat to the City for review and approval by the City Planner. The City may withhold approval of the final Plat until the Conditions of Approval have been complied with and construction requirements have been approved by the City.

SECTION 2.332 FORM AND SCALE

The final Plat shall be submitted in the form prescribed by ORS 92 and the county recording standards. The scale of the final Plat shall be one (1) inch equals 100 feet. The scale may be increased or decreased if necessary to fit the required size of 18 by 24 inches, but in all cases the scale used shall be in multiples of one (1) inch equals ten (10) feet.

SECTION 2.333 INFORMATION REQUIRED

In addition to that otherwise specified by law, the following information shall be shown on the final Plat.

- (1) The name of the owner(s), land divider, surveyor and land division. The date, scale, northpoint, legend and existing features such as creeks, drainage courses, highways and railroads.
- (2) Reference to Federal Geodetic Control Committee guidelines for third order class II, points of existing surveys identified, related to the Plat by distances and bearings, and referenced to a field book or map as follows:
 - (a) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the land division.
 - (b) Adjoining corners of adjoining land divisions.
 - (c) Other monuments found or established in making the survey or required to be installed by provisions of this Code.
- (3) The exact location and width of streets, right-of-ways and easements intercepting the boundary of the tract.
- (4) Tract and lot or parcel boundary lines and street right-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and Monroe bearings. Tract boundaries and street bearings shall be shown to the nearest 30

seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.

- (5) The name and width of the portion of streets being dedicated, the width of any existing right-of-way and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center-line dimensions, the radius and center angle shall be indicated.
- (6) Easements denoted by fine dashed lines clearly identified and, if already of record, their recorded reference. If an easement is not definitely located or recorded, there shall be a written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division, must be shown. If the easement is being dedicated by the Plat or map, it shall be properly referenced in the owner's certificates of dedication.
- (7) Locations and widths of drainage channels including one hundred year flood plain or normal high water lines for any creek or other body of water, railroad rights-of-ways, reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the land division.
- (8) Numbering of lots or parcels shall begin with the number "1" and numbered consecutively. Number sequence will generally follow the same system as other sections are numbered in a township.
- (9) Lots or parcels to be dedicated for any purpose shall be distinguished from lots or parcels intended for sale with acreage and alphabetic symbols for each parcel indicated.
- (10) Notations indicating any limitations on rights of access to or from streets and lots or other parcels of land as established by the City.
- (11) Special building setback lines and solar easements, if any, which are to be made part of the Deed Covenants Conditions and Restrictions (CC&Rs) of the land division.

SECTION 2.334 SUPPLEMENTAL INFORMATION WITH PLAT. Filing of separate legal documents to achieve any of the requirements of the final Plat may be permitted by the City when it can be shown that placing such information on the final Plat is not required to achieve the purposes of this Code. The following data shall accompany the Plat.

- (1) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the land to be divided.
- (2) Legal descriptions of the land division boundaries if available at the time of Plat approval.
- (3) Data sheets and drawings showing the following:

- (a) Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners, and showing the error of closure, if any.
 - (b) The computation of distances, angles and courses shown on the Plat.
 - (c) Ties to existing monuments, proposed monuments, adjacent subdivision, street corners and state highway stationing.
- (4) A copy of any proposed deed CC&Rs (Covenants, Conditions and Restrictions) applicable to the land division or a statement in writing signed by the land divider that no such restrictions will be established.
 - (5) A copy of any dedication requiring separate documents.
 - (6) Proof that all taxes and assessments on the tract have been paid.
 - (7) A certificate by the City that the land divider has complied with one of the following alternatives:
 - (a) All improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Commission giving conditional approval of the Tentative Plan.
 - (b) An agreement and security has been executed as provided in Sections 7.510 and 7.520 to assure completion of required improvements.

SECTION 2.335 SURVEY REQUIREMENTS

- (1) A complete and accurate survey of the land to be divided shall be made by a registered surveyor licensed to practice in the State of Oregon in accordance with standard practices and principles of land surveying and as provided in this Code and state law including Oregon Revised Statutes, Chapter 92 and Chapter 209.
- (2) Monuments
 - (a) All monuments shall be set according to the provisions of state law.
 - (b) In making the survey for the land division, the survey shall set sufficient permanent monuments prior to the recording of the final Plat so that the survey or any part thereof may be retraced according to standards required by the County Surveyor except interior monuments of subdivisions may be delayed with approval of the Planning Commission.
 - (c) Interior "post monumentation" may be permitted by approval of the County Surveyor per ORS Chapter 92 upon request prior to filing the final Plat subject to the following:

1. The Subdivider has shown that it is necessary and practical to delay the interior monumentation.
 2. The Subdivider of the Plat agrees to furnish a bond, cash deposit, irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005, or other security approved by the City in an amount equal to not more than 120 per cent of the estimated cost of performing the work for the interior monuments.
 3. The Subdivider shall sign an agreement with his surveyor and the City as to the amount of the security to be furnished at the time of submitting the final Plat and include a statement how the surveyor is to be paid for the work of establishing the interior monuments. The rules for post monumentation shall be followed. Provide the City with an estimated date when monumentation will be completed, and set out other particulars that may be necessary to insure the completion of the monumentation at a later date.
- (3) Utility markers shall be provided for all underground water, sewer, septic tanks and drainfields and utility stubs within the prepared land division as approved by the City.

SECTION 2.336 DEDICATION REQUIREMENTS

- (1) All lots or parcels of land shown on the final Plat intended for public use shall be offered for dedication to the City at the time the Plat is filed. Exception: Those lots or parcels, or common linear open spaces which are intended for the exclusive use of the owners, their licensees, visitors, tenants or employees; and also excepted are those parcels of land reserved for public acquisition.
- (2) All streets, pedestrian ways, drainage channels, open spaces, easements and other rights-of-way shown on the final Plat intended for public use shall be offered for dedication for public use at the time the final Plat is filed.
- (3) All rights of access to and from streets, lots and parcels of land shown on the final Plat intended to be surrendered shall be offered for dedication at the time the final Plat is filed.
- (4) The land divider shall provide and designate one-foot reserve strips across the ends of stubbed streets adjoining undivided land or along half streets adjoining undivided land. The reserve strip shall be included in the dedication granting to the City the right to control access over the reserve strip to assure the continuation or completion of the street. This reserve strip shall overlay the dedicated street right-of-way.

SECTION 2.337 CERTIFICATES ON FINAL PLAT

- (1) Certificates on the Final Subdivision or Partition Plat: The following certificates, declarations, acknowledgments and other requirements established by State law shall appear on the final Plat of a subdivision.
 - (a) A declaration in conformance with ORS 92.075 on the final Plat by the declarant, the fee owner, vendor and/or the mortgage or trust deed holder of the property who has caused or consented to the following:

1. Preparation and recordation of the final Plat.
2. Offering for dedication all parcels of land, streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way intended for public use.
3. Protective covenants, conditions or restrictions on the use of lots or parcels, right-of-ways and easements.

- (b) A certificate of the registered licensed surveyor who prepared the survey and the final Plat.
- (c) A certificate for execution by the City Planner.
- (d) A certificate for execution by the County Surveyor.
- (e) A certificate for execution by the County Assessor.
- (f) A certificate for execution by the County Clerk.
- (g) Other certifications now or hereafter required by law.
- (h) A statement of water rights together with the water rights certificate number if applicable.

- (2) All signatures on the Plat shall be in permanent ink in conformance with ORS 92.080.
- (3) All copies required for filing purposes shall be certified as an exact copy by the surveyor who prepared the Plat in accordance with ORS 92.120, Subsection (3).

SECTION 2.338 DECISION CRITERIA

A final Plat of a subdivision or partition may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1) The final Plat is in substantial conformance with the Tentative Plan.
- (2) The Conditions of Approval attached to the Tentative Plan have been satisfied.

SECTION 2.339 DECISION PROCESS

- (1) Upon receipt by the City, the Plat and other data shall be reviewed by the City Planner or designee to determine that the land division as shown is substantially the same as it appeared on the approved Tentative Plan and that there has been compliance with provisions of the conditions of approval and the Code.
- (2) The City may make such checks in the field as are desirable to verify that the Plat is sufficiently correct on the ground and City representatives may enter the property for this purpose. Certifications of the County Surveyor shall be used to determine that the plat survey is technically correct.

- (3) If the City Planner finds errors or finds that the Plat does not substantially conform to the approved Tentative Plan, the City shall notify the Planning Commission and shall advise the land divider of the changes or additions that must be made and shall afford the land divider an opportunity to make corrections.
- (4) If the City Planner determines that the Plat conforms to the approved Tentative Plan, including all supplemental documents, provisions for required improvements and all conditions specified by the Planning Commission a recommendation for final plat approval shall be added to the Final Record. The recommendation of the Plat approval does not constitute or effect an acceptance by the City of the dedication of any street or other easements offered on the Plat until officially accepted and signed by the Planning Commission Chair and Mayor.

SECTION 2.340 FILING OF PLAT

- (1) The land divider shall, without delay, submit the Plat for signatures of public officials required by this Code or state law. Approval of the Plat shall be null and void if it is not recorded within 120 days after approval by the City Planner.
- (2) The land divider shall deliver to the City a signed and certified copy of the Plat and all recorded documents required and approved by the City. The City shall maintain the documents in the Record File of the Application in accordance with Section 2.150.
- (3) The land divider offering a plat for filing to which a water right is apparent shall also submit a copy of the plat to the State Water Resources Department as required by ORS 92.120.

SECTION 2.350 REPLATTING

- (1) Replatting shall allow the reconfiguration of lots or parcels and public easements within a recorded Plat in accordance with ORS 92.180 to 92.190. A replat shall conform to all of the requirements of the City for a subdivision of land including notice and approval of a Tentative Plan. Upon approval by the City, the replat will act to vacate the Platted lots or parcels and easements within the replat area.
- (2) Notice consistent with that required for approval of a Tentative Plan shall be provided by the City. All affected utility companies or public agencies shall also be notified. Utility companies desiring to maintain easements proposed for vacation shall notify the City within 14 days of the mailing of the notice.

SECTION 2.360 EXPEDITED LAND DIVISIONS

When an expedited land division for residential use only is requested by an Applicant the City shall use the procedures for an expedited land divisions specified under ORS 197.365 in lieu of the procedures described in Sections 2.320 through 2.329 if the application complies with the conditions and standards of ORS 197.360 through 197.380.

SECTION 2.400 SITE PLAN REVIEW

The purpose of the site plan review procedures is to correlate the general code requirements with the specific site conditions and proposed uses through a comprehensive review process

to assure that developments are in conformance with the City's applicable land use regulations.

- (1) **Site Plan Review Application.** An application for a use requiring a Site Plan Review shall be filed with the City together with a site plan and other supplementary data described in the Application, Section 2.130 and Section 2.140. The City Planner may also request a Site Plan Review for any development proposal, in addition to those specifically required by this Code, if the site or proposed use possesses any one of the following characteristics:
 - (a) Site is traversed by a natural drainage-way or has demonstrated drainage limitations.
 - (b) Site includes, or is adjacent to, Open Space and/or Greenway Areas designated in the Comprehensive Plan.
 - (c) Site is located in a hazard area.
 - (d) Site contains unusual topographic features including hillside slopes exceeding 15% slopes.
 - (e) Site or proposed buildings have unusual or special features requiring a decision by the City.

- (2) **Decision Criteria.** After an examination of the Site and prior to approval, the Planning Commission must make the following findings:
 - (a) That the characteristics of the proposed development are compatible with the land use zone, the surrounding area and potential impacts have been mitigated to the maximum extent practical.
 - (b) That the applicable provisions of city codes and ordinances are complied with.
 - (c) That traffic congestion is avoided, pedestrian and vehicular safety is protected, and future street rights-of-way are protected.
 - (d) That proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or adversely impact adjacent properties.
 - (e) That adequate water, sewage disposal system and utilities for the proposed use are available.
 - (f) That drainage-ways are protected and drainage facilities provided.
 - (g) That the extent of emissions and potential nuisance characteristics are compatible with the land use zone, adjacent land uses, and the standards of all applicable regulatory agencies having jurisdiction.

- (3) **Decision Process.** The procedure for taking action on an application for a Site Plan Review shall be as follows:
- (a) A Site Plan Review requires a "Limited Land Use Review" by the Planning Commission in conformance with Section 3.400. A Limited Land Use Decision requires notification to owners of property within 100 Feet of the subject property with an opportunity to submit written comments prior to the review and decision by the Planning Commission.
 - (b) The Planning Commission may approve, deny, or modify and approve the Site Plan and attach any reasonable conditions to approval of a site development plan.
 - (c) The Planning Commission may also call for a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood or the City.
 - (d) Once approved, the site plan submitted shall become the Official Plan. Building permits shall be issued only for plans that conform to the Official Plan and all construction shall conform to the Official Plan or a Certificate of Occupancy may be withheld until compliance.
 - (e) All required elements of the approved site plan shall be installed and maintained indefinitely by the owner, unless approval has been received for a revision or amendment.
 - (f) Revisions or amendments to an approved site plan shall follow the same procedure as for adoption of a site development plan.
 - (g) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Site Plan as specified in Section 3.600.

SECTION 2.500 CONDITIONAL USES

A conditional use is a use of land or a structure which is normally appropriate in the district where it is permitted, but due to the specifics of that use could cause a potential nuisance, health or safety problem. It is the intent of this section to provide standards and procedures so that uses which are classified as conditional can fit into a particular zone in a manner that safeguards surrounding property, the neighborhood, and the City.

- (1) **Conditional Use Application.** An application for a use requiring a Conditional Use must be filed with the City together with a site plan and other supplementary data using forms prescribed in Section 2.130 and Section 2.140. A Quasi-judicial Decision requires notification to property owners within 250 Feet of the subject property with an opportunity to submit written or oral comments at a public hearing prior to the close of the record and a decision by the Planning Commission. The Planning Commission may

also request a Conditional Use for any development proposal, in addition to those specifically required by this Code, if the site or proposed use has characteristics similar to, but different than, the uses permitted in the zone.

Uses existing prior to the effective date of this Code that are classified as a conditional use in this Code shall conform with the requirements for a conditional use if a change in use, lot area or an alteration is proposed.

(2) **Decision Criteria.** Conditional uses listed in this Code may be permitted, altered, or enlarged upon authorization of the Planning Commission in accordance with the following findings:

- (a) That the characteristics of the proposed development are compatible with the land use zone, the surrounding area and potential impacts have been mitigated to the maximum extent practical.
- (b) That the applicable provisions of city codes and ordinances are complied with.
- (c) That traffic congestion is avoided, pedestrian and vehicular safety is protected, and future street rights-of-way are protected.
- (d) That proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or impact on adjacent properties.
- (e) That adequate water, sewage disposal system and utilities for the proposed use are available.
- (f) That drainage-ways are protected and drainage facilities provided.
- (g) That the extent of emissions and potential nuisance characteristics are compatible with the land use zone, adjacent land uses, and the standards of all applicable regulatory agencies having jurisdiction.

(3) **Decision Conditions.** In approving a conditional use application, the Planning Commission may require additional standards and conditions which the Planning Commission considers necessary to comply with the intent and purpose of the implementing codes or ordinances. These conditions may include, but are not limited to, the following:

- (a) Regulating the required lot size, lot width, or yard dimensions.
- (b) Regulating the height of buildings.
- (c) Controlling the location and number of vehicle access points.
- (d) Requiring dedication of additional street right-of-way or increasing the street width.

- (e) Increasing the number of required off-street parking or off-street loading spaces.
 - (f) Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 - (g) Limiting the number, size, location and lighting of signs.
 - (h) Requiring ongoing maintenance of buildings and grounds.
 - (i) Regulating emissions, potential hazards or nuisance characteristics caused by the proposed use which could have a negative impact on the surrounding area or the City as a whole.
 - (j) Providing internal property improvements such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, fencing, screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property.
 - (k) Regulating time periods for the conduct of certain activities.
 - (l) Setting a time limit for which the conditional use is approved.
 - (m) Providing a performance bond or other security for the cost of improvements to guarantee compliance with the standards and conditions of approval for the conditional use approved by the Planning Commission.
 - (n) Providing a contractual agreement with the City to assure that the applicant will pay a share of the development costs for future public improvements.
- (4) **Decision Process.** The procedure for taking action on an application for a Conditional Use shall be as follows:
- (a) A Conditional Use requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with Section 3.510. A Quasi-judicial Decision requires notification to property owners within 250 Feet of the subject property with an opportunity to submit written or oral comments at a public hearing prior to the close of the record and decision by the Planning Commission.
 - (b) The Planning Commission may approve, deny, or approve conditionally the Conditional Use and attach any reasonable standards of development to attain compliance with the zone and city codes and ordinances.
 - (c) If an application is denied, the action must be based on reasons related to non-compliance with the Development Code or Ordinance requirements.
 - (d) Once approved, the Conditional Use shall become the Official Plan. Building permits shall be issued only for plans which conform to the Official Plan and all

construction shall conform to the official plan or a Certificate of Occupancy may be withheld until compliance.

- (e) All required elements of the approved Conditional Use shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
- (f) Revisions, amendments or expansion of existing conditional uses having an impact greater than 15% of size, traffic, or other nuisance characteristic shall follow the same procedure as that utilized for approval.
- (g) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Conditional Use as specified in Section 3.600.

SECTION 2.600 VARIANCES

Because of the impossibility of foreseeing and providing for all circumstances and conditions that may effect individual properties or uses, the variance provision is created to allow modification of the provisions of this Code for special and unusual circumstances without defeating the purpose and intent of the Code.

- (1) **Variance Application.** An application for a Variance shall be filed with the City together with a site plan and other supplementary data using forms prescribed in Section 2.130 and Section 2.140. The applicant shall submit evidence that the circumstance for granting a Variance as outlined in Item (2) herein apply to the Variance request. The Planning Commission may authorize variances from the requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property or use, strict application of the Code would cause an undue or unnecessary hardship. A Variance shall not be granted to allow a use permitted in another district or zone, to allow a use not authorized within the intended district or zone. In granting a Variance, the Planning Commission may attach conditions that it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this Code.
- (2) **Decision Criteria.** A Variance may be granted if all of the following circumstances exist:
 - (a) That there are special circumstances or conditions affecting the property or use.
 - (b) That the Variance is necessary for the proper design and/or function of the proposed development or land division.
 - (c) That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.

- (d) That the granting of the Variance will not conflict with the purpose and intent of the district or zone or other related ordinances of the City.
- (3) **Decision Process.** The procedure for taking action on an application for a Variance shall be as follows:
- (a) A Variance requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with Section 3.510. A Quasi-judicial Decision requires notification to property owners within 250 Feet of the subject property with an opportunity to submit written or oral comments at a public hearing prior to the close of the record and a decision by the Planning Commission.
 - (b) The Planning Commission may approve, deny, or approve conditionally the Variance request and attach any reasonable standards of development to attain compliance with the zoning district and this Code as provided in Section 3.600.
 - (c) If an application is denied, the action must be based on reasons related to non-compliance with the Comprehensive Plan and Code requirements.
 - (d) If the application is approved, the Planning Commission may prescribe the terms and conditions upon which a Variance may be granted and may set a time limit for the duration of such Variance and may require guarantees in an approved form to insure that the conditions and standards for the approved Variance will be fulfilled.
 - (e) Once approved, the Variance shall become official standard. Building permits or land divisions shall only be approved for plans that conform to the conditions and standards of the approved Variance and all construction shall conform to the approved Variance or a Certificate of Occupancy may be withheld until compliance.
 - (f) All required elements of the approved Variance shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
 - (g) Revisions or amendments to an approved Variance shall follow the same procedure as that utilized for approval.
 - (h) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Variance as specified in Section 3.600.
- (4). **ADMINISTRATIVE VARIANCES** The following variances are reviewed using a Limited Land Use Decision procedure, except notice shall be provided abutting property owners, using the approval criteria in subsection (b) of this section:

- (a) Deviations from the required development standard up to 10% such as for setback, lot coverage, or building height.
- (b) An Administrative variance may be granted if the applicant demonstrates compliance with all of the following criteria; otherwise a formal variance will be required:
 - 1. There is no opposition from adjacent property owners.
 - 2. The variance requested is required due to the lot configuration or other conditions of the site;

SECTION 2.700 AMENDMENTS

It is recognized that this Code, including the Comprehensive Plan, may require amendments to adjust to changing circumstances. An amendment may require either, a Legislative Decision as defined in Section 3.200(2) or a Quasi-judicial Decision as defined in Section 3.200(3) depending upon whether the amendment applies to the Code or Plan in general or to a specific property.

- (1) **Amendment Application.** An Amendment may be initiated by the City Council, the City Planning Commission or by application of a property owner. A request by a property owner for an amendment shall be accomplished by filing an application with the City using forms prescribed in Section 2.130.
- (2) **Decision Criteria.** All requests for an amendment to the text, zoning map or comprehensive plan map of this Code may be permitted upon authorization by the City Council in accordance with following findings:
 - (a) The proposed amendment is consistent with the intent of the Comprehensive Plan.
 - (b) There is a public need for the proposed amendment to comply with changing conditions or new laws.
 - (c) The amendment will not unduly adversely impact adjacent areas or the land use plan of the City.
 - (d) The amendment will not have an undue adverse environmental impact.
 - (e) The amendment will not have an undue adverse impact on public facilities.
 - (f) The amendment will not have an undue adverse impact on transportation.
 - (g) The amendment will not have an undue adverse impact on economy of the area.
 - (h) The amendment is consistent with the intent of applicable Statewide Planning Goals.

(3) **Decision Process.**

- (a) Text amendments or map amendments that affect a group or class of properties within the City requires a "Legislative Decision" by the City Council with recommendation by the Planning Commission in conformance with the Legislative Public Hearing procedures of Section 3.520.
- (b) Map amendments initiated by an applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with recommendation by the Planning Commission in conformance with the Quasi-judicial Public Hearing procedures of Section 3.510.
- (c) The City Council upon recommendation of the Planning Commission may approve, deny or approve with standards or conditions to attain compliance with this Code or the applicable zoning district.
- (d) The City is not required to justify denial of a proposed legislative change.
- (e) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Amendment as specified in Section 3.600.

SECTION 2.800 ANNEXATIONS

The annexation of land to the City of Monroe shall promote orderly growth of the City and the efficient provision of public facilities and services. The Monroe Urban Growth Boundary Agreement with Benton County specifies that annexations and urban services shall only occur within the Monroe Urban Growth Boundary (UGB). The procedures and standards for annexations are specified in ORS 222.111 to 222.180. A change in the UGB requires an Amendment to the Monroe Comprehensive Plan in conformance with Statewide Planning Goal 14 and an Amendment to the Urban Growth Boundary and Policy Agreement between the City of Monroe and Benton County.

- (1) **Annexation Application.** A proposal for annexation may be initiated by the City Council or by a petition to the City Council by owners of real property located in the territory to be annexed. A request by a property owner for an annexation shall be accomplished by filing an application with the City using forms prescribed in Section 2.130. Each application for annexation shall include the following material:
 - (a) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both as provided by state law.
 - (b) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
 - (c) A map of the area to be annexed including adjacent City territory.

- (d) A statement of the expected demand on public facilities and the availability of public facilities and services to serve the proposed annexation.
 - (e) A statement of the overall development intent and a conceptual land use plan indicating the types and intensities of proposed development, transportation corridors, watercourses, significant natural features, and adjoining development.
 - (f) Upon acceptance of a complete application, the City shall request a Staff Review together with other public or private agencies which may be affected by the proposed annexation. Upon receipt of the application, plans and accompanying narrative, Staff shall make an evaluation and recommendation. Comments and recommendations shall be available to the public and the Applicant. The Applicant shall be advised of any recommended changes or conditions for approval. The City shall incorporate all Staff comments into a report to the Planning Commission and City Council. The report shall include an analysis of the impacts of the proposed annexation, a review of applicable City and State policies and standards, and a recommendation as to the appropriateness of the proposed development and the annexation itself.
- (2) **Decision Criteria.** All requests for annexation to the City may be permitted upon authorization by the City Council in accordance with following findings:
- (a) The proposed annexation is consistent with the Urban Growth Boundary.
 - (b) The annexation will not unduly adversely impact adjacent areas or the land use plan of the City.
 - (c) The annexation will not have an undue adverse environmental impact.
 - (d) The annexation will not have an undue adverse impact on public facilities.
 - (e) The annexation will not have an undue adverse impact on transportation.
 - (f) The annexation will not have an undue adverse impact on economy of the area.
- (3) **Decision Process.** The procedure for taking action on an annexation request may be one of the following:
- (a) Upon the filing of a complete application for annexation, the City Council shall review the application and refer the request to the Planning Commission to evaluate the proposed annexation and to determine the appropriate zoning district to be applied upon annexation and make a recommendation to the City Council.
 1. The Planning Commission shall hold a public hearing in accordance with the provisions of Section 3.510 for the purposes of reviewing the proposed annexation and zoning district(s).

2. Following the close of the public hearing the Commission shall recommend the appropriate zoning district to be applied upon annexation and forward its recommendation to the City Council.
- (b) The City Council may submit the proposal for annexation to the electors of the territory to be annexed except as provided in ORS 222.120.
 - (c) The City Council may submit the proposal for annexation to the electors of the City except as provided in ORS 222.120.
 - (d) The proposal for annexation may be voted upon by the electors of the territory and the City simultaneously or at different times not more than 12 months apart.
 - (e) As provided in ORS 222.120, the City Council is not required to submit a proposal for annexation to the electors of the City if the City Council holds a public hearing on the proposed annexation.
 1. Notice of the public hearing shall be published in a newspaper of general circulation and posted in four public places once a week for two successive weeks prior to the hearing.
 2. Following the hearing the City Council may, by ordinance containing a legal description of the territory to be annexed, declare the territory annexed upon the condition that the majority votes cast in the territory is in favor of the annexation or where the electors or landowners in the territory to be annexed consent in writing to the annexation prior to the public hearing.
 - (f) The City Council need not hold an election in the city or the contiguous territory to be annexed, but shall hold a public hearing, when all of the owners of land and not less than 50% of the electors, if any, residing in the territory consent in writing to the annexation and file the statement with the City Council. Upon receiving the consent to annexation and following a public hearing, the City Council may, by resolution or ordinance, set the boundaries of the area to be annexed by a legal description and proclaim the annexation.
- (4) A written record of the findings and action of the City shall be maintained in a Record File of the Application as specified in Section 2.150. Notice of Decision shall be given the Applicant and all parties to the proceedings as specified in Section 3.600, Decision.
 - (5) Approval of the annexation shall require a Notice of Decision be given the proper state and county authorities including the Oregon Secretary of State, the Oregon Department of Revenue, the Oregon Inventory and Mapping Unit, affected private utilities and franchisees, the County Clerk and the Assessor of Benton County. Notice shall include a legal description of the annexed property, a map of the proposed property showing the location of the annexed property relative to the Monroe City Limits.

SECTION 2.900 VACATIONS

Where it is determined that a proposed Vacation shall not be injurious to the City or abutting properties, it may be appropriate to vacate all or parts of a public right-of-way, easements or other public places. This section states the procedures and criteria to permit the vacation of public lands not needed for municipal purposes, where it is consistent with the community land use policies and goals. Ownership of vacated territory may revert to the original property or proportionally to the adjoining properties and become a part thereof, unless specified otherwise by the City Council. The City may also sell vacated property with preference given to adjoining property owners.

- (1) **Vacation Application.** An application for a Vacation may be initiated by the City Council or by petition of adjoining or area land owners in accordance with ORS 271.080. A request by a property owner for a Vacation shall be accomplished by filing an application with the City using forms prescribed in Section 2.130. Applicants shall set forth a description of the area proposed to be vacated and shall submit a map showing the same area and shall state the purpose and justification for the proposed vacation.
- (2) **Consent of Affected Property Owners.** At the time the application is submitted, the Applicant shall submit a letter or letters of consent from affected property owners. For purposes of this Code and in compliance with ORS 271.080, affected property owners shall be defined as:
 - (a) All abutting property owners, and
 - (b) Owners of not less than two-thirds in area of the real property affected thereby.

Consent of the owners of the required amount of property shall be submitted in writing and duly acknowledged by the City prior to the scheduling of a public hearing for the requested Vacation.

- (3) **Decision Criteria.** A Vacation request may be approved if the review body finds that the applicant has shown that all of the following review criteria are met:
 - (a) The proposed Vacation is consistent with any official street plan, transportation plan or public facility plan.
 - (b) The proposed Vacation will not adversely impact adjacent areas or the land use plan of the City.
 - (c) The proposed Vacation will not have a negative effect on access between public rights-of-way, existing or future properties, public facilities or utilities.
 - (d) The proposed Vacation will not have a negative effect on traffic circulation or emergency service protection.

- (e) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.
 - (f) The proposed Vacation will not have an adverse impact on economy of the area.
 - (g) The public interest, present and future, will be best served by approval of the proposed Vacation.
- (4) **Decision Process.** The procedure for taking action on a Vacation request may be one of the following:
- (a) Upon the filing of a complete application for a Vacation, the City Council shall set a public hearing to review the matter for no less than 30 days after such filing.
 - (b) Zoning of Vacated Right-of-Way. Except as otherwise provided within the vacation ordinance or where the official City zoning map is not clear as to the zoning of vacated right-of-way, the zoning of each parcel of vacated territory shall be the same as the adjoining property to which the ownership of the vacated unit of land reverts.
 - (c) Vacations initiated by an applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council in conformance with the Quasi-judicial Public Hearing procedures of Section 3.510 as supplemented by the provisions of ORS Chapter 271. State law defines the affected area and mandates notice requirements as follows:
 - 1. The City shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for three consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in four of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.
 - 2. Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.
 - 3. The city shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city shall hold the sum so obtained until the actual cost has

been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor.

- (d) The City Council may approve, deny or approve with standards or conditions to attain compliance with this Code and State Statutes.
 - (e) Conditions of Approval. The City may attach conditions to the approval of a Vacation request to ensure that the proposal will conform to the review criteria and may require purchase of the vacated property by the acquiring party.
- (5) A written record of the findings and action of the Planning Commission on the Application shall be maintained by the City in a Record File as specified in Section 2.150. Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Variance as specified in Section 3.600, Decision.

ARTICLE 3 DECISION PROCESSES

SECTION 3.110 BASIS FOR DECISION

The basis for a decision on a land use application and the reasons for approval or denial are contained in ORS 227.173.

- (1) Approval or denial of a discretionary permit application shall be based on standards and criteria contained in the City's Comprehensive Plan and implementing ordinances.
- (2) Approval or denial of a land use application shall be based upon and accompanied by:
 - (a) A brief statement that explains the criteria and standards considered relevant to the decision.
 - (b) A statement of the facts relied upon in rendering the decision.
 - (c) An explanation of the justification for the decision based on the criteria, standards and facts set forth.
- (3) An application shall not be approved unless the proposed development of land would be in compliance with the City Comprehensive Plan, this Code or other applicable land use regulations or ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215 or any city legislation.

SECTION 3.120 FORM OF DECISION

A land use decision will take one of three forms:

- (1) **Approval.** Approval means the review or hearing body found the approval criteria were satisfied by the presented facts.
- (2) **Approval with Conditions.** Approval with conditions means the review or hearing body found the approval criteria could be satisfied with the application of specified conditions of approval as authorized in this Code.
- (3) **Denial.** Denial means the review or hearing body found the approval criteria was not satisfied by the presented facts and could not be made to comply with attached conditions of approval.

SECTION 3.200 TYPE OF DECISIONS

ORS 197 and ORS 227 define four types of decisions utilized by cities to address land use applications. Each type of decision has its own procedural requirements. The four types of decisions are:

- (1) **Administrative Decisions**
An administrative decision is a decision that correlates the adopted code or ordinance requirements and standards, to an individual issue. These interpretations are usually provided by the City Planner or designee.

(2) **Legislative Decisions**

A legislative decision produces a general rule, law or policy applicable to everyone under similar circumstances. Legislative decisions have a "presumption of validity." They are the laws that apply to everyone in similar situations.

An example of a Legislative Decision was the adoption of the City's Comprehensive Plan, this Code and Ordinances. Other legislative decisions provided for in this Code include text amendments and zone change map amendments that affect a group or class of properties within the City. Legislative Amendments to this Code are provided for in Section 2.700.

(3) **Quasi-judicial Decisions**

A Quasi-judicial Decision involves a discretionary judgment applying the adopted rules, laws or policies to a specific individual land use situation like determining the permissible use of a specific piece of property. The action is judicial in nature and the hearing body must conduct a fair and impartial hearing. The decision must be based upon demonstrated compliance with the applicable criteria or standards contained in the City Comprehensive Plan, this Code, ordinances or policies, as determined by the factual evidence presented in the public hearing. The applicant for a change in the use of land specified in the Comprehensive Plan and implementing ordinances bears the burden of proof for the requested change.

Examples of Quasi-judicial Decisions provided for in this Code include, but are not limited to, Conditional Uses as provided in Section 2.500, Variances as provided in Section 2.600 or a zone change map amendment for a specific property as provided in Section 2.700.

(4) **Limited Land Use Decision**

The 1991 Oregon Legislature added ORS 197.195 to Chapter 197 to provide provisions for a final decision or determination made by a city pertaining to a site within its urban growth boundary which concerns:

- (a) Approval or denial of a subdivision or partition, as described in ORS 92.
- (b) Approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to, site reviews and design reviews.

A Limited Land Use Decision is a form of discretionary decision that does not require a public hearing and is not subject to the requirements of ORS 197.763 for quasi-judicial public hearings, but is subject to the requirements of ORS 227.173 for a Planning Commission review of the application.

SECTION 3.300 NOTIFICATION

- (1) **Administrative** actions authorized by this Code do not require notifications.

- (2) **Legislative** actions authorized by this Code require one or more public hearings and notification to property owners if the land use or zoning classification of the property is changed or the proposed change limits or prohibits uses previously allowed in the affected zone. Other means of notification that provides the general public and organizations believed to have an interest in a legislative issue with reasonable opportunity to be aware of the hearing on the issue is permitted and encouraged.
- (3) **Limited Land Use** reviews or **Quasi-judicial** public hearings authorized by this Code require notification to the applicant and to owners of property within 250-feet of the property that is the subject of the notice as identified on the most recent property tax assessment roll where such property is located. Notice shall also be provided to public agencies known to be affected and to any neighborhood or community organization recognized by the City whose boundaries include the site.
- (4) A notice of review or hearing shall be mailed at least 20 days prior to the date of the review or hearing; or if two or more reviews or hearings are allowed, 10 days before the first review or hearing. A Legislative ordinance change that rezones property or limits or prohibits uses previously allowed in the affected zone requires notification to be mailed to the affected property owners at least 20 days but not more than 40 days prior to the date of the first hearing on the ordinance amendment.
- (5) The required notice provisions of this section may be expanded to include properties beyond 250 Feet and may include giving notice by other means, including news letters, mail, postings, radio or newspaper. If newspaper notification is utilized notification shall be published in a newspaper of general circulation not less than 10 days or more than 20 days prior to the date of the hearing.
- (6) The failure of a person to receive the notice as provided in this section shall not invalidate such proceedings if the City can validate by affidavit that such notice was given.
- (7) The notice provided by the City shall:
 - (a) Explain the nature of the application or the proposed change and how the proposal would affect the proposed use of the property.
 - (b) List the applicable criteria from the Code and the Plan that apply to the application at issue or indicate where to find criteria.
 - (c) Set forth the street address or other easily understood geographical reference to the subject property.
 - (d) State the file number and the date, time and location of the review or public hearing.
 - (e) State that failure of an issue to be raised in a review or hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker an

opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue.

- (f) Include the name and address of the City Planner and the telephone number where additional information may be obtained.
 - (g) State that a copy of the application, all documents and evidence relied upon by the applicant and the applicable criteria are available for inspection at the Monroe City Hall at no cost and will be provided at reasonable cost.
 - (h) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the review or hearing and copies will be provided at reasonable cost.
 - (i) Include a general explanation of the requirements for submission of testimony and the procedures for the conduct of reviews or public hearings by the City.
 - (j) The City shall provide written notice of the decision to the Applicant and all parties to the proceeding. The notice shall briefly summarize the decision making process and contain an explanation of appeal rights.
- (8) **Wetland Notice.** The City shall provide the Oregon Division of State Lands, the Applicant and Owner with notice of applications for developments located within areas identified as "Wetlands" on the State-wide Wetlands Inventory. No physical alteration shall occur within defined wetland areas until a notice or permit is received from the Division. If the Division fails to respond within 30 days of notice, City approval may be granted with written notice to the applicant and owner that their proposal may require state or federal permits.
- (9) **DLCD Notice.** The City shall notify the Department of Land Conservation and Development of a pending adoption or amendment to the City Comprehensive Plan, Implementing Ordinances, or any other land use ordinance or regulation. The notice shall be provided at least 45 days before the proposed first hearing on adoption and the notice shall contain information sufficient to inform the Department as to the effect of the proposal. If the City determines that the statewide goals do not apply to a proposed amendment or new regulation, notice is not required. In addition, the City may consider an amendment or new regulation with less than 45 days notice if the City Council determines that there are emergency circumstances requiring expedited review.
- (10) **Manufactured Home Park Notice.** If an application would change the zone of property, including all or part of a Manufactured Home Park, the City shall provide written notice by first class mail to each existing mailing address for tenants of the Manufactured Home Park at least 20 days prior to the date of the first hearing on the application.

SECTION 3.400 LIMITED LAND USE REVIEW PROCEDURES

The following procedures govern the conduct of Limited Land Use Reviews by the Planning Commission for all Site Plan Reviews, Nonconforming Use Reviews, or Partition Tentative Plans. Written comments may be submitted prior to the review decision. No public comment or testimony is permitted at the review unless the Planning Commission finds that clarification from the Applicant is needed.

- (1) At the commencement of a review the Chairperson shall request a summary of the Staff Report that:
 - (a) States the address or geographic location of the subject property.
 - (b) Explains the nature of the application and the proposed use or uses which could be affected or could be authorized.
 - (c) Lists the applicable criteria from the Code and the plan that apply to the application at issue.
 - (d) State that written testimony and evidence must be directed toward the criteria or other criteria in the plan or ordinances which the person believes to apply to the decision.
 - (e) State that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the City Council or LUBA based on that issue.
 - (f) State that the City shall provide written notice of the decision to the Applicant and all parties to the proceeding. The notice shall briefly summarize the decision making process and contain an explanation of appeal rights.
- (2) The Planning Commission may choose to schedule a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood or the City.

SECTION 3.510 QUASI-JUDICIAL PUBLIC HEARING PROCEDURES

The following procedures govern the conduct of Quasi-judicial Public Hearings by the Monroe Planning Commission or the Monroe City Council on an application for a land use decision:

- (1) A Quasi-judicial Public Hearing is required by the Planning Commission for discretionary land use decisions including, but not limited to Conditional Uses, Variances and Subdivisions. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing.
- (2) Quasi-judicial Public Hearings are required by both the Planning Commission and City Council for discretionary land use decisions for a Zone Change Map Amendment initiated by an applicant for a specific property. Written testimony may be provided at

the hearing or prior to the hearing. Oral testimony may be provided at the hearing. An Amendment to this Code is provided for in Section 2.700.

- (3) The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing. The Mayor or President of the City Council shall preside at joint hearings. Following the joint public hearing, the Planning Commission will deliberate at a separately scheduled meeting and make a recommendation to the City Council. The City Council will consider the recommendation of the Planning Commission and following deliberation, make a final decision on the amendment considering the public testimony, factual evidence presented and compatibility and compliance with the City Comprehensive Plan and the Statewide Land Use Goals and Guidelines.
- (4) An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised not later than the close of the record following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient detail so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- (5) At the commencement of a hearing the Chairperson of the Hearing Body shall:
 - (a) Announce the purpose of the hearing.
 - (b) State that the applicable substantive criteria will be presented in the Staff Report.
 - (c) State that testimony and evidence must be directed toward the criteria or other criteria in the plan or ordinances which the person believes to apply to the decision.
 - (d) State that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue.
- (6) The Chair shall request members of the hearing body to declare and identify any potential conflict of interest or any ex parte contacts on the issue:
 - (a) Members shall place on the record the substance of any written or oral ex parte communications concerning the decision or action.
 - (b) Members shall make a public announcement of the content of the communication.
 - (c) Opposition parties' have a right to rebut the substance of any ex parte communication at the first hearing following said communication.
 - (d) In accordance with ORS 227.180, no decision or action by the Planning Commission or City Council shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body if the member makes the declarations cited above.

- (7) The Chair shall request presentation of the Staff Report.
- (8) The Chair shall request reports or testimony from any Governmental Agencies.
- (9) The Chair shall make the following statements before presentation of testimony:
 - (a) A person shall first stand and state his full name and address.
 - (b) The Chair, members of the Hearing Body, or others, with the recognition of the Chair may question a witness.
- (10) The Chair shall call for the Applicant's Presentation.
- (11) The Chair shall call for other Proponent testimony in favor of the Request.
- (12) The Chair shall call for Opponent's testimony in opposition to the Request.
- (13) The Chair shall call for general comments.
- (14) The Chair shall call for the Applicant's rebuttal to opponent's testimony. The Applicant has the right of rebuttal - Opponents do not.
- (15) The Chair shall close the hearing or continue it to an announced time and place.
- (16) Unless there is a continuance, if a participant so requests, before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. When a record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
- (17) Call for deliberation by Hearing Body following the close of the Hearing or Record. The Hearing Body may make its decision following the hearing or may continue its deliberation to a subsequent meeting. The time and place of the subsequent meeting shall be announced.

SECTION 3.520 LEGISLATIVE PUBLIC HEARING PROCEDURES

The following procedures govern the conduct of Legislative land use public hearings conducted before the Monroe Planning Commission or the Monroe City Council on an Amendment to this Code:

- (1) Legislative public hearings are required by both the Planning Commission and City Council for text amendments or zone change map amendments that affect a group or class of properties. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing. Amendments to this Code are provided for in Section 2.700.

- (2) The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing. The Mayor or President of the City Council shall preside at joint hearings. Following the joint public hearing, the Planning Commission will deliberate at a separately scheduled meeting and make a recommendation to the City Council. The City Council will consider the recommendation of the Planning Commission and following deliberation, make a final decision on the amendment considering the public testimony, factual evidence presented and compatibility and compliance with the City Comprehensive Plan and the Statewide Land Use Goals and Guidelines.
- (3) An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised not later than the close of the record following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient detail so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- (4) At the commencement of a hearing a statement by the Chairperson shall be made to those in attendance that:
 - (a) Announces the purpose of the hearing.
 - (b) States that the applicable substantive criteria will be presented in the Staff Report.
 - (c) States that testimony and evidence must be directed toward the criteria or other criteria in the City Comprehensive Plan, this Code or other ordinances which the person believes to apply to the decision.
 - (d) States that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue.
- (5) The Chair shall request presentation of the Staff Report.
- (6) The Chair shall request reports or testimony from any Governmental Agencies.
- (7) The Chair shall make the following statements before presentation of testimony:
 - (a) A person shall first stand and state his full name and address.
 - (b) The Presiding Officer, members of the Hearing Body, or others, with the recognition of the chair may question a witness.
- (8) Call for testimony in favor of the change.
- (9) Call for testimony in opposition to the change.
- (10) Call for general comments.

- (11) Close the hearing or continue it to another announced time and place.
- (12) Call for deliberation by Hearing Body following close of the Hearing. The Hearing Body may make its decision following the hearing or may continue its deliberation to a subsequent meeting. The time and place of the subsequent meeting shall be announced.

SECTION 3.600 DECISION

Applicants and participants in a land use proceeding are entitled to a decision based upon a fair and impartial review or hearing of the factual evidence presented in conformance with the relevant standards and criteria contained in the City's Comprehensive Plan, Codes or Ordinances.

- (1) **Decision Justification.** The review or hearing body shall make a decision on a land use application and provide a brief statement that explains the standards and criteria considered relevant to decision, states the facts relied upon and explains the justification for the decision, with findings that summarize the facts believed by the review or hearing body and how the standards and criteria are satisfied by the accepted facts.
- (2) **Findings.** Findings are based on the information presented in the application, the staff report and evidence presented in the proceedings. ORS 227.173 requires:
 - (a) An explanation of the relevant criteria applicable to the decision.
 - (b) A statement of the facts supporting the decision.
 - (c) An explanation of how the standards and criteria are satisfied by the accepted facts and justify the decision.
- (3) **Findings for Approval.** The findings must contain a statement that the applicable policy or criteria is satisfied by the accepted facts presented.
- (4) **Findings for Approval with Conditions.** The findings must contain a statement that the applicable policy or criteria can be satisfied by the facts presented with the application of conditions of approval as authorized in this Code.
- (5) **Findings for Denial.** The findings must contain a statement that the applicable policy or criteria are not satisfied by the facts presented.
- (6) **Notice of Decision.** Written notice shall be given to the Applicant and all parties to the proceedings. The notice shall contain the following information:
 - (a) The name of the Applicant and/or Owner of the subject property.
 - (b) The address or geographic description of the subject property.

- (c) A description of the requested action.
- (d) The date of decision.
- (e) A summary of the decision made.
- (f) An explanation of appeal rights.
- (g) The location where the record may be reviewed.

SECTION 3.700 APPEAL PROVISIONS

An appeal issue shall be raised at the time of the review or hearing, either in person or by letter. The appeal issue raised must be specific and shall be presented with enough clarity to afford the decision body an opportunity to adequately respond to the issue. Failure to raise the issue at the review or hearing or failure to clearly define the issue shall preclude appeal to the City Council or to the Land Use Board of Appeals (LUBA) on that issue.

- (1) Written notice of the appeal shall be filed with the City on forms provided by the City. An Appeal request shall contain:
 - (a) The name of the appellant(s) and a statement by the appellant that they were a party to the initial proceedings.
 - (b) Identification of the decision being appealed.
 - (c) The date of the decision being appealed.
 - (d) The form and basis of the appeal and the criteria relied upon for the appeal request.
- (2) An action or ruling of the City Planner or designee pursuant to this Code may be appealed to the Planning Commission within 15 days after the decision is made. If an appeal is not filed within the above specified period, the decision of the City Planner or designee shall be final. If the appeal is filed, the Planning Commission shall receive a report and recommendation thereon from the City Planner or designee and shall hold public hearing on the appeal.
- (3) An action or ruling of the Planning Commission pursuant to this Code may be appealed to the City Council within 15 days after the Planning Commission decision is mailed.

Written notice of the appeal shall be filed with the City. If the appeal is not filed within the above specified period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall request a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. The City Council may continue the hearing for good cause. Following the hearing, the City Council may sustain any recommendations or ruling of the Planning Commission,

provided such action complies with the provisions of this Code, or the City Council may decide the issue.

- (4) **Notice.** A "Notice of Appeal" shall be provided in the same manner as provided for in the original Application and Notice of Decision including all parties to the previous proceedings. A "Notice of Appeal" shall contain:
 - (a) The name of the appellant and a statement that they were a party to the initial proceedings.
 - (b) Identification of the decision being appealed.
 - (c) The date of the decision being appealed.
 - (d) The form and basis of the appeal and the criteria relied upon for the appeal.
- (5) **Scope of Review.** The hearing body shall determine the scope of review on the appeal to be one of the following:
 - (a) Review on specific issues relative to the decision being appealed.
 - (b) Review only on the official record of the decision being appealed.
 - (c) A "de novo" hearing as if the request had not been previously heard, except that all testimony, evidence and other materials in the record of the previous review or hearing may be included in the new record of review.
- (6) A party aggrieved by the City's final determination in a proceeding for a land use decision, limited land use decision or discretionary permit may have the determination reviewed by the Land Use Board of Appeals (LUBA) under ORS 197.828 to 197.845 by filing a notice of intent to appeal with LUBA not later than 21 days after the decisions becomes final.

SECTION 3.800 REVOCATION

A decision on a land use application may be overturned, revoked or modified by the City on any one or more of the following grounds after a public hearing on the issue:

- (1) A material misrepresentation or mistake of fact was made in the application or evidence submitted, either intentionally or unintentionally.
- (2) The use for which approval was granted has ceased to exist.
- (3) Failure to comply with the terms and conditions of approval.
- (4) The use is in violation of a provision of this Code or other applicable statutes, ordinances, or regulations.
- (5) The approval decision was overturned on appeal.

ARTICLE 4 ZONING DISTRICTS

SECTION 4.010 CLASSIFICATION OF ZONES

For the purpose of this Code the following primary land use zoning districts are hereby established:

<u>Primary Zones</u>	<u>Abbreviated Designation</u>
Residential (Low Density)	GRA
Residential (Medium Density)	GRB
Commercial	C
Industrial	M
Public Use	P

SECTION 4.020 CLASSIFICATION OF OVERLAY DISTRICTS

(1) An Overlay District may be established in combination with a Primary Zone. The Overlay District shall establish additional requirements, standards and procedures for the use and development of property in the Primary Zone. In cases of conflict between the standards and requirements of the Primary Zone and the Overlay District, the standards and requirements of the Overlay District shall apply.

(2) For the purposes of this Code the following Overlay Districts are hereby established:

<u>Overlay Districts</u>	<u>Abbreviated Designation</u>
Flood Plain Overlay	See FEMA map

SECTION 4.030 LOCATION OF ZONES

The boundaries for the zones listed in this Code are indicated on the Monroe Zoning Map, dated September 11, 2008 which is hereby adopted by reference and made a part of this Code.

SECTION 4.040 ZONING MAPS

A zoning map adopted by Section 4.030 of this Code or an amendment thereto shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the City Recorder as long as this Code remains in effect.

SECTION 4.050 ZONE BOUNDARIES

Unless otherwise specified, zone boundaries are section lines, sub-division lines, lot lines, center lines of street or railroad right-of-way or such lines extended except where a boundary line clearly divides a lot, then the boundary line shall be determined by use of scale designated on the zoning map. Where a boundary line divides a lot, the boundary line shall be considered as the lot line for purposes of determining area and setback requirements for each zone.

SECTION 4.060 ZONING OF ANNEXED AREAS

All areas annexed to the City shall be rezoned consistent with the Comprehensive Plan at the time of annexation.

SECTION 4.070 SIMILAR USE AUTHORIZATION

The City Planner may permit a use not listed in this Code provided the use is of the same general type as the uses permitted in a particular zoning district. However, this section does not authorize the inclusion in a zone where a use is specifically listed in another zone. The decision of the City Planner may be appealed to the Planning Commission whose decision may be appealed to the City Council using procedures specified in Section 3.700 of this Code.

SECTION 4.080 NONCONFORMING USES

It is the intent of the nonconforming use sections of this Code to permit pre-existing uses and structures that do not conform to the use or dimensional standards of this Code to continue under conditions specified herein. However, alteration or expansion of these nonconforming uses and structures, thereby creating potentially adverse impacts in the immediate neighborhood or in the City as a whole are generally not supported, except as otherwise allowed.

- (1) **Continuation of a Nonconforming Use.**
 - (a) Subject to the provisions contained herein, a nonconforming use of a structure or a nonconforming use, may be continued and maintained, but shall not be altered or extended except as provided herein.
 - (b) The extension of a nonconforming use to a portion of a structure which was arranged or designed for such use at the time of passage of this Code is not an extension of a nonconforming use.
- (2) **Nonconforming Structure.** A structure conforming as to use but nonconforming as to height, setback, lot coverage or similar dimensional standards, may be altered or extended along such line, provided the alteration or extension does not cause the structure to further deviate from the standards of this Code. Such extension or alteration may be permitted upon written approval from the affected abutting property owner or variance approval of the Planning Commission.
- (3) **Discontinuance of a Nonconforming Use.**
 - (a) If a nonconforming use involving a structure, excepting residential structures, is discontinued from active use for a period of 1 year, further use of the property shall be for a conforming use unless approved by the Planning Commission via the Conditional Use Permit process.
 - (b) If a nonconforming use not involving a structure is discontinued from active use for a period of 6 months, further use of the property shall be for a conforming use.
- (4) **Change of a Nonconforming Use.** If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the zone in which it is located, unless approved by the Planning Commission via the Conditional Use Permit process.

(5) **Destruction of a Nonconforming Use or Structure.**

- (a) If a nonconforming structure or a structure containing a nonconforming use is totally or substantially destroyed to an extent greater than 50% of the assessed value by any cause, any future structure or use on the site shall be in accordance with the provisions of the zone in which the property is located, except as otherwise provided.
- (b) A residential structure non-conforming as to setback or lot coverage that is destroyed by any reason may be replaced in its original footprint or to any more conforming degree provided all applicable building or fire codes are adhered to. Replacement shall begin within one (1) year of destruction, though the decision making body may grant a one-year extension.
- (c) A non-conforming dwelling, in any industrial or commercial zone, may be altered, extended, or replaced within one-year of destruction provided that such alteration or extension shall not exceed the yard, lot coverage and building height requirements of the underlying zone.

(6) **Repairs and Maintenance.** Any building housing a nonconforming use may be maintained or restored to conform with the standards of the building code, including repair or replacement of fixtures, wiring, or plumbing, provided the building is not increased in cubic content or floor area.

(7) **Completion of Structure.** Nothing contained in this Code shall require any change in the plans, construction, alteration or designated use of a structure for which a building permit has been lawfully issued and construction has commenced prior to adoption of this Code, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within one (1) year from the time the permit is issued.

SECTION 4.100 PRIMARY ZONES

SECTION 4.111 RESIDENTIAL ZONE - GRA

- (1) **Purpose.** To provide areas suitable and desirable for low density single-family residential use with provisions for associated residential or public service uses.
- (2) **Permitted Uses.** In a GRA Zone, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code:
 - (a) One single-family dwelling or manufactured home per lot, subject to Section 6.111 or 6.114.
 - (b) Residential Care Homes for 5 or less people as provided in ORS 197.660 -670.

- (c) Group Child Care Home for 12 or less children as provided in the applicable provisions of ORS 657A.
 - (d) Accessory buildings subject to the following standards:
 1. Accessory buildings shall not be used for dwelling purposes.
 2. Accessory buildings 200 to 400 square feet shall be setback at least 5 feet from an interior property line and limited to one story. No accessory building shall exceed 800 square feet unless submitted for approval under the Site Plan Review provisions of Section 2.400.
 3. No sales shall be made from an accessory structure unless it has been approved as a Home Occupation under the home occupation standards of Article 6.
 - (e) Boats, trailers, detached campers, recreation vehicles and similar recreational equipment may be stored on-site except in a front exterior yard setback and shall not be used for human habitation. Temporary use of a Recreation Vehicle for guests is permitted for no more than 30 days in any calendar year.
 - (f). Home occupation, subject to Article 6.
 - (g) Accessory Dwelling, subject to Article 6.
- (3) **Conditional Uses.** In a GRA Zone, the following uses and their accessory uses may be permitted in conformance with the conditional use provisions of Section 2.500 and the applicable Use Standards of Article 6.
- (a) Public or semi-public uses.
 - (b) Residential Care Facility for 15 or less people as provided in ORS 197.660 to 670.
 - (c) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A.
 - (d) Church
- (4) **Development Standards.**
- (a) Lots shall have a minimum lot size of 8,000 square feet and a maximum lot size of 14,000.
 - (b) No structure or use shall be established in a manner likely to disrupt or cause contamination of a stream, lake, or other body of water.
 - (c) Front yards shall have a minimum depth of 15 feet; with a minimum of a 20 foot setback for a garage or carport.
 - (d) Side yards shall have a minimum width of 5 feet with 10 feet on any side street; with a minimum of 20 for a garage or carport.

- (e) Rear yards shall have a minimum depth of 20 feet.
- (f) No structure shall exceed 30 feet in height.
- (g) Manufactured Homes placed on individual lots outside of a Manufactured Home Park shall comply with the standards of Section 6.110.
- (h) See Article 5 for additional General Development Standards; Section 5.116 for Yard Exceptions, and Article 6 for Use Standards that may apply in the GRA Zone.
- (i) Maximum lot coverage shall be forty percent (40%).
- (j) Minimum lot width shall be 12 feet of street frontage.

SECTION 4.112 RESIDENTIAL ZONE - GRB

- (1) **Purpose.** To provide areas suitable and desirable for medium density single-family residential use with provisions for associated residential or public service uses.
- (2) **Permitted Uses.** In a GRB Zone, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code:
 - (a) One single-family dwelling, duplex, or manufactured home subject to Section 6.111 or 6.114, per lot.
 - (b) Residential Care Homes for 5 or less people as provided in ORS 197.660 -670.
 - (c) Group Child Care Home for 12 or less children as provided in the applicable provisions of ORS 657 A.
 - (d) Boats, trailers, detached campers, recreation vehicles and similar recreational equipment may be stored on-site except in a front exterior yard setback and shall not be used for human habitation. Temporary use of a Recreation Vehicle for guests is permitted for no more than 30 days in any calendar year.
 - (f). Home occupation, subject to Article 6.
 - (g) Accessory Dwelling, subject to Article 6
 - (h) Multiple-family dwelling units in conformance with the Site Plan Review provisions of Section 2.400.
- (3) **Conditional Uses.** In a GRB Zone, the following uses and their accessory uses may be permitted in conformance with the conditional use provisions of Section 2.500 and the applicable Use Standards of Article 6.

- (a) Public or semi-public uses.
 - (b) Residential Care Facility for 15 or less people as provided in ORS 197.660 - 670 .
 - (c) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657A.
- (4) **Development Standards.**
- (a) Lots shall have a minimum lot size of 6000 square feet for the first unit and an additional 3000 square feet for each unit thereafter and a maximum lot size of 10,500 square feet unless otherwise approved by the Planning Commission via site plan approval for multi-family housing or the conditional use permit processes.
 - (b) No structure or use shall be established in a manner likely to disrupt or cause contamination of a stream, lake, or other body of water.
 - (c) Front yards shall have a minimum depth of 15 feet; with a minimum of a 20 foot setback for a garage or carport.
 - (d) Side yards shall have a minimum width of 5 feet with 10 feet on any side street; with a minimum of 20 for a garage or carport.
 - (e) Rear yards shall have a minimum depth of 20 feet.
 - (f) No structure shall exceed 30 feet in height.
 - (g) Manufactured Homes placed on individual lots outside of a Manufactured Home Park shall comply with the standards of Section 6.110.
 - (h) See Article 5 for additional General Development Standards; Section 5.116 for Yard Exceptions, and Article 6 for Use Standards that may apply in the GRB Zone.
 - (i) Lot coverage shall be limited to forty-percent (40%)
 - (j) Minimum lot width shall be 12 feet of street frontage.

SECTION 4.121 COMMERCIAL ZONE - C

- (1) **Purpose.** To provide areas suitable and desirable for commercial development intended to respond to the business needs of area residents and highway travelers.
- (2) **Permitted Uses.** In a C-1 Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of Sections 2.400 and the standards, provisions and exceptions set forth in this Code, provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building:

- (a) Retail stores or shops.
 - (b) Personal or business service.
 - (c) Repair shops limited to indoor activities.
 - (d) Eating or drinking establishments.
 - (e) Offices, business or professional.
 - (f) Financial institutions.
 - (g) Indoor commercial amusement or recreation establishments.
 - (h) Public or semi-public buildings and uses.
 - (i) Residential Care Facility for 15 or less people as provided in ORS 197.660 - 670.
 - (j) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A.
- (3) **Conditional Uses.** In a C Zone, the following uses and their accessory uses may be permitted, subject to the provisions of Section 2.500:
- (a) Automotive service facilities with access from a designated arterial or collector street.
 - (b) Repair shops which possess nuisance characteristics or emissions potentially detrimental to public health, safety and general welfare of the community such as noise, vibrations, smoke, odor, fumes, dust, heat, glare or electromagnetic interference or require a permit from the Oregon Department of Environmental Quality shall not be permitted unless additional safeguards are specified by the Planning Commission. The applicant shall accurately specify the extent of emissions and nuisance characteristics relative to the proposed use. Misrepresentation or omission of required data shall be grounds for termination of a Certificate of Occupancy.
 - (c) Permitted uses listed in (2) above, requiring outside display or storage, including but not limited to, automobile or equipment sales.
- (4) **Development Standards.**
- (a) Each site shall be adequately served by public utilities including municipal water and sewer service and shall provide sidewalks and improved streets.
 - (b) No minimum site area.

- (c) Exterior yards shall not be required but may be provided if utilized exclusively for sidewalks, landscaping, and access drives. A 5 foot landscape buffer shall be required and maintained at the street when the exterior yard is utilized for parking as specified in Section 5.134.
- (d) No interior yards are required.
- (e) No building permit shall be issued within the C Zone without Planning Commission approval of a Site Plan Review.
- (f) No structure shall exceed 35 feet in height.
- (g) Access shall be designed to cause minimum interference with traffic movement on abutting streets. Additional right-of-way shall be dedicated to maintain adequate traffic circulation, where necessary.
- (h) The site shall be landscaped and effectively screened from adjacent residential areas, as provided in Section 5.134.
- (i) The arrangement of buildings, parking areas, signs and other facilities shall be designed and oriented to minimize noise and glare relative to adjacent property.
- (j) Artificial lighting, including illuminated signs and lights for parking areas, shall be so arranged and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
- (k) See Article 5 for additional General Development Standards and Article 6 for Use Standards that may apply in the C-1 Zone.

SECTION 4.131 LIMITED INDUSTRIAL ZONE - M

- (1) **Purpose.** To provide areas suitable for limited manufacturing, warehousing and industrial activities that have minimal emissions or nuisance characteristics.
- (2) **Permitted Uses.** In an M Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of Section 2.400:
 - (a) Light manufacturing, warehousing, wholesaling, storing, compounding, assembling, processing, researching, public or semi-public buildings or uses, treating or testing uses not requiring any DEQ permits, provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building, and provided there are no emissions potentially detrimental to the public health or nuisance characteristics discernible without instruments at the property line.
- (3) **Conditional Uses.** In the M Zone, the following uses may be permitted when authorized in accordance with Section 2.500:

- (a) Warehouse or wholesale distribution and sales facility or activities listed in 2(a) above generally conducted outside an enclosed building.
- (b) Manufacturing, processing or above ground storage of hazardous materials.
- (c) Industrial use requiring open display or storage. Open storage of materials or products may be allowed where natural or artificial screening can be provided to obscure from view at eye-level from the property line. Such storage shall not be permitted in required yards.
- (d) Uses that require a permit from the ODEQ or possess nuisance characteristics or emissions potentially detrimental to the public health, safety and general welfare of the community such as noise, vibration, smoke, odor, fumes, dust, heat, glare or electromagnetic interference. The applicant shall accurately specify the extent of emissions and nuisance characteristics relate to the proposed use. Misrepresentation or omission of required data shall be grounds for termination of a Certificate of Occupancy or land use approval.
- (e) All uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction. Prior to approval of conditional use applications or building permits, evidence shall be submitted to the City indicating that the proposed activity has been approved by all appropriate regulatory agencies.

(4) **Development Standards.**

- (a) Each site shall be adequately served by public utilities including municipal water and sewer service and shall provide sidewalks and improved streets.
- (b) No minimum site area is required.
- (c) Exterior yards shall have a minimum depth of 30 feet with the 10 feet adjacent to the lot line utilized exclusively for landscaping and access drives. A 4 foot high landscape buffer or berm shall be maintained at the street when the exterior yard is utilized for parking as specified in Section 5.134.
- (d) Interior yards shall be 25 feet.
- (e) Artificial lighting, including illuminated signs and lights for parking areas, shall be so arranged and constructed so as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
- (f) No structure shall exceed 50 feet in height.

- (g) Access shall be designed to cause minimum interference with traffic movement on abutting streets. Where necessary, additional right-of-way shall be dedicated to maintain adequate traffic circulation.
- (h) The site shall be landscaped and effectively screened from adjacent residential areas, as provided in Section 5.134.
- (i) The arrangement of buildings, parking areas, signs and other facilities shall be designed and oriented to minimize noise and glare relative to adjacent property.

SECTION 4.141 RESERVED FOR FUTURE USES

SECTION 4.151 PUBLIC USE ZONE - P

- (1) **Purpose.** To provide areas suitable and desirable for public use provided that the property is governmentally owned (such as federal, state, county, municipal, or special district) and to provide for the orderly development and use of publicly owned property. The zone standards do not apply to public infrastructure where no personnel are based, or a building footprint of less than 400 square feet, or use of land on less than 5000 square feet.
- (2) **Permitted Uses.** In a P Zone, any use or structure is permitted subject to the Site Plan Review procedures of Section 2.400 provided that it is governmentally owned and complies with all applicable provisions of City Codes governing the type of use or structure proposed.
- (3) **Transfer of Ownership.**
 - (a) Whenever a P-Zone, or any part of a P Zone, is transferred to private ownership, the P Zone shall cease to apply and the property owner shall initiate a Zone Change Amendment in accordance with the procedures of Section 2.700.
 - (b) Whenever any privately owned land is considered for acquisition by a governmental agency for public use, the governmental entity shall initiate a Zone Change Amendment in accordance with the procedures of Section 2.700.
- (4) **Development Standards.**
 - (a) Each site shall be adequately served by public utilities including municipal water and sewer service and shall provide sidewalks and improved streets.
 - (b) Exterior yards shall have a minimum of 25 feet utilized exclusively for landscaping and access and egress drives.
 - (c) Interior yards shall be 25 feet.
 - (d) Artificial lighting, including illuminated signs and lights for parking areas, shall be so arranged and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.

- (e) Access shall be designed to cause minimum interference with traffic movement on abutting streets. Additional right-of-way shall be dedicated to maintain adequate traffic circulation where necessary.
- (f) The site shall be landscaped and effectively screened from adjacent residential areas, as provided in Section 5.134.
- (g) The arrangement of building, parking areas, signs and other facilities shall be designed and oriented to minimize noise and glare relative to adjacent property.

SECTION 4.200 OVERLAY DISTRICTS

An Overlay-District may be established in combination with a Primary Zone. The Overlay-District shall establish additional requirements, standards and procedures for the use and development of property in the Primary Zone. In cases of conflict between the standards and requirements of the Primary Zone and the Overlay District, the standards and requirements of the Overlay District shall apply.

- (1) **Application.** The City, a property owner, or any interested person may apply for designation of an Overlay District in combination with any Primary Zone in accordance with the application requirements of Sections 2.130 and 2.140 and the amendment procedures of Section 2.700. The Quasi-judicial hearing procedures of Section 3.510 shall be used when the application is submitted by a property owner and applies to a specific property. The Legislative hearing procedures of Section 3.520 shall be used when the Overlay District is applied by the City to a group or class of properties under similar circumstances.

SECTION 4.300 FLOOD HAZARD OVERLAY-DISTRICT - FH

- (1) **Purpose.** It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
 - (a) To protect human life and health;
 - (b) To minimize expenditure of public money and costly flood control projects;
 - (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (d) To minimize prolonged business interruptions;
 - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

- (f) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(2) **Methods of Reducing Flood Losses.** In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- (f) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances

(3) **Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“APPEAL” means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

“AREA OF SPECIAL FLOOD HAZARD” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

“BASE FLOOD” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letters A or V.

“BASEMENT” means any area of the building having its floor subgrade (below ground level) on all sides.

“BELOW-GRADE CRAWL SPACE” means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point

“BREAKAWAY WALL” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“CRITICAL FACILITY” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

“DEVELOPMENT” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“ELEVATED BUILDING” means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

“EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“FLOOD” OR “FLOODING” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

“FLOOD INSURANCE RATE MAP (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“FLOOD INSURANCE STUDY” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

“FLOODWAY” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“LOWEST FLOOR” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 5.2-1(2).

“MANUFACTURED HOME” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“NEW CONSTRUCTION” means structures for which the “start of construction” commenced on or after the effective date of this ordinance.

“NEW MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

“RECREATIONAL VEHICLE” means a vehicle which is: 1) Built on a single chassis; 2) 400 square feet or less when measured at the largest horizontal projection; 3) Designed to be self-propelled or permanently towable by a light duty truck; and 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“START OF CONSTRUCTION” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms;

nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“STATE BUILDING CODE” means the combined specialty codes.

“STRUCTURE” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“SUBSTANTIAL DAMAGE” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: 1) Before the improvement or repair is started; or 2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“VARIANCE” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

“WATER DEPENDENT” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

- (4) **Lands to Which This Ordinance Applies.** This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Monroe.
- (5) **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for **Benton County, Oregon and Incorporated Areas** dated June 2, 2011, with accompanying Flood Insurance Rate Maps (FIRM) are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at Monroe City Hall. The best available information for flood hazard area identification as outlined in 4.305(4)(b) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under 4.305(4)(b).
- (6) **Interpretation.** In the interpretation and application of this ordinance, all provisions shall be:
- (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and,
 - (c) Deemed neither to limit nor repeal any other powers granted under State statutes and rules including the state building code.
- (7) **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Monroe, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 4.305 -- ADMINISTRATION

- (1) **Development Permit Required.** A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 4.300(5). The permit shall be for all structures including manufactured homes, as set forth in the “DEFINITIONS,” and for all development including fill and other activities, also as set forth in the “DEFINITIONS.”
- (2) **Application for Development Permit.** Application for a development permit shall be made on forms furnished by the City of Monroe and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
 - (a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - (b) Elevation in relation to mean sea level of flood proofing in any structure;
 - (c) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 4.300(7)(b); and
 - (d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

- (3) Designation of the Local Administrator

The City Planner is hereby appointed to administer and implement this ordinance by processing permit applications in accordance with its provisions.

- (4) **Duties and Responsibilities of the Local Administrator.** Duties of the local administrator shall include, but not be limited to:

- (a) Permit Review
 1. Review all development permits to determine that the permit requirements and conditions of this ordinance have been satisfied.
 2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
 3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 4.305(9)(a) are met.
- (b) Use of Other Base Flood Data (In A and V Zones). When base flood elevation data has not been provided (A and V Zones) in accordance with Section 4.300(5), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the local administrator shall obtain, review, and reasonably utilize any base flood

elevation and floodway data available from a Federal, State or other source, in order to administer Sections 4.305(7), SPECIFIC STANDARDS, and 4.305(9) FLOODWAYS.

(c) Information to be Obtained and Maintained.

1. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in 4.305(4)(b), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved flood proofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in 4.305(4)(b):
 - (i) Verify and record the actual elevation (in relation to mean seal level), and
 - (ii) Maintain the flood proofing certifications required in Section 4.305(2)(c).
3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

(d) Alteration of Watercourses

1. Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(e) Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.305(5).

(f) Appeals of FIFRM Boundaries. An appeal from a decision of the administrator regarding a FIRM Boundary pursuant to 4.305(4) above, shall be taken to the Planning Commission. An appeal from the decision of the Planning Commission regarding a FIRM Boundary shall be taken to the City Council. Appeals under this section shall be conducted according to the order of procedure set out for discretionary land use decisions. The burden of proof for such an appeal shall be on the applicant. The City Planner shall report any such decision to the Federal Insurance Administration up request.

(5) **Variance Procedure**

(a) Appeal Board

1. The Monroe Planning Commission shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Monroe Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City of Monroe in the enforcement or administration of this ordinance.
3. Those aggrieved by the decision of the Monroe Planning Commission, or any taxpayer, may appeal such decision to the City Council.
4. In passing upon such applications, the City shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - (i) The danger that materials may be swept onto other lands to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion damage;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) The importance of the services provided by the proposed facility to the community;
 - (v) The necessity to the facility of a waterfront location, where applicable;
 - (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) The compatibility of the proposed use with existing and anticipated development;
 - (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Upon consideration of the factors of Section 4.305(5)(a) and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
6. The City Planner shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(b) Conditions for Variances

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 4.305(5)(a) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4.305(5)(b), and otherwise complies with Sections 4.305(6)(a)1 and 4.305(6)(b) of the GENERAL STANDARDS.
8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) PROVISIONS FOR FLOOD HAZARD REDUCTION

- (a) General Standards. In all areas of special flood hazards, the following standards are required:
 - 1. Anchoring
 - (i) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - (ii) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- (b) AH Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.
- (c) Construction Materials and Methods
 - (i) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (ii) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (iii) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (d) Utilities
 - (i) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - (ii) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
 - (iii) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.
- (e) Subdivision Proposals
 - (i) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
 - (iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

(iv) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

(f) Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (4.305(4)(b)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above grade in these zones may result in higher insurance rates.

(7) **SPECIFIC STANDARDS.** In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Section 4.300(5), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or 4.305(4)(b), Use of Other Base Flood Data (In A and V Zones), the following provisions are required:

(a) Residential Construction

- (i) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.
- (ii) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

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

(b) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (i) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

- (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.305(2)(c);
 - (iv) Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in 4.305.(7)(a)(ii);
 - (v) Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one foot below.
- (c) **Manufactured Homes**
- (i) All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the finished floor of the manufactured home is elevated to a minimum 18 inches (46 cm)¹ above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement on sites:
 - A. Outside of a manufactured home park or subdivision,
 - B. In a new manufactured home park or subdivision,
 - C. In an expansion to an existing manufactured home park or subdivision, or
 - D. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood;
- (d) **Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community’s FIRM that are not subject to the above manufactured home provisions be elevated so that either:**
- (i) The finished floor of the manufactured home is elevated to a minimum of 18 inches (46 cm) above the base flood elevation, or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

¹ See 2002 Oregon Manufactured Dwelling and Parks Specialty Code, Chapter 3. The code also requires that the top of the dwelling stand be at least 12 inches above BFE.

- (e) Recreational Vehicles. Recreational vehicles placed on sites are required to either:
- (i) Be on the site for fewer than 180 consecutive days
 - (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - (iii) Meet the requirements of 4.305(7)(c) above and the elevation and anchoring requirements for manufactured homes.
- (f) Below-grade crawlspaces. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:
- (i) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Subsection (ii) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
 - (ii) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
 - (iii) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
 - (iv) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
 - (v) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
 - (vi) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

- (vii) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
- (viii) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
- (ix) For more detailed information refer to FEMA Technical Bulletin 11-01.

(8) **BEFORE REGULATORY FLOODWAY.** In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(9) **FLOODWAYS.** Located within areas of special flood hazard established in Section 4.300(5) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Except as provided in paragraph (3), prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If Section 4.305(9)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4.305(6), PROVISIONS FOR FLOOD HAZARD REDUCTION.
- (c) Projects for stream habitat restoration may be permitted in the floodway provided:
 - (i) The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,
 - (ii) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the

- project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
- (iii) No structures would be impacted by a potential rise in flood elevation; and,
 - (iv) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

- (d) New installation of manufactured dwellings are prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:
 - (i) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or
 - (ii) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria
 1. As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;
 2. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the Flood Insurance Rate Map;
 3. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;
 4. The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;
 5. The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and
 6. Any other requirements deemed necessary by the authority having jurisdiction.

- (10) **CRITICAL FACILITY.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

ARTICLE 5

GENERAL DEVELOPMENT STANDARDS

SECTION 5.010

DEVELOPMENT STANDARDS MATRIX

STANDARDS	PRIMARY LAND USE ZONES				
	GRA	GRB	C-1	M-1	P-1
Zoning Districts	Sec 4.111	Sec 4.112	Sec 4.121	Sec 4.131	Sec 4.151
Minimum Lot Size	8,000 s.f.	6,000 s.f.	NA	NA	(SPR)
Minimum Width	12	12			
Front Yard	15 ft	15 ft	0 ft	30 ft	25 ft
Interior Yard	5 ft	5 ft	0 ft	25 ft	25 ft
Side Street Yard	10 ft.	10 ft.	See Parking	30 ft	
Rear Yard	20 ft	20 ft	0 ft	0 ft	25 ft
Maximum Structure Height	30 ft	30 ft	35 ft	50 ft	(SPR)
Maximum Bldg Coverage	40%	40%	(SPR)	(SPR)	(SPR)
Overlay Districts					
Application	Sec 4.200	Sec 4.200	Sec 4.200	Sec 4.200	Sec 4.200
Flood Plain	Sec.4.300	Sec.4.300	Sec.4.300	Sec.4.300	Sec.4.300
Development Standards	<i>Reflects many but not all standards</i>				
Parking Standards	Sec 5.120	Sec 5.120	Sec 5.120	Sec 5.120	Sec 5.120
Off-Street Parking Spaces	Sec 5.121	Sec 5.121	Sec 5.121	Sec 5.121	Sec 5.121
Access & Vision Clearance	Sec 5.122	Sec 5.122	Sec 5.122	Sec 5.122	Sec 5.122
Streets	Sec 5.123	Sec 5.123	Sec 5.123	Sec 5.123	Sec 5.123
Storm Drainage	Sec 5.126	Sec 5.126	Sec 5.126	Sec 5.126	Sec 5.126
Water	Sec 5.127	Sec 5.127	Sec 5.127	Sec 5.127	Sec 5.127
Sanitary Sewer	Sec 5.128	Sec 5.128	Sec 5.128	Sec 5.128	Sec 5.128
Landscaping and Fencing	Sec 5.134	Sec 5.134	Sec 5.134	Sec 5.134	Sec 5.134
Exterior Lighting	Sec 5.135	Sec 5.135	Sec 5.135	Sec 5.135	Sec 5.135
Signs	Sec 5.136	Sec 5.136	Sec 5.136	Sec 5.136	Sec 5.136
Solar Access	Sec 5.137	Sec 5.137	Sec 5.137	Sec 5.137	Sec 5.137
Use Standards					
Accessory Dwellings	Sec 6.100	Sec 6.100	Sec 6.100	Sec 6.100	Sec 6.100
Home Occupations	Sec 6.101	Sec 6.101			
Residential Care Homes	Sec 6.102	Sec 6.102	Sec 6.102		
Residential Care Facility	Sec 6.103	Sec 6.103	Sec 6.103		
Multiple-family Residential		Sec 6.104			
Manufactured Housing	Sec 6.110	Sec 6.110		Sec 6.110	Sec 6.110
Improvement Requirements					
Article 7					
Design Standards					
Article 8					
Procedures					
Applications	Sec 2.130	Sec 2.130	Sec 2.130	Sec 2.130	Sec 2.130
Application Site Plan	Sec 2.140	Sec 2.140	Sec 2.140	Sec 2.140	Sec 2.140
Land Divisions	Sec 2.300	Sec 2.300	Sec 2.300	Sec 2.300	Sec 2.300
Site Plan Review (SPR)	Sec 2.400	Sec 2.400	Sec 2.400	Sec 2.400	Sec 2.400
Conditional Use	Sec 2.500	Sec 2.500	Sec 2.500	Sec 2.500	Sec 2.500
Variances	Sec 2.600	Sec 2.600	Sec 2.600	Sec 2.600	Sec 2.600
Amendments	Sec 2.700	Sec 2.700	Sec 2.700	Sec 2.700	Sec 2.700
Definitions	Sec 1.200	Sec 1.200	Sec 1.200	Sec 1.200	Sec 1.200

SECTION 5.020 DEVELOPMENT STANDARDS

In addition to the development standards specified for each zoning district, there are many standards that apply in more than one zone. The following Sections specify development standards applicable within any zoning district in the City of Monroe. The City may adjust the development standards contained in Article 5 to provide an efficient land division or a more efficient utilization of a property when submitted for approval under the City's review and approval procedures.

SECTION 5.030 PLAN CONFORMANCE

All developments within the City shall conform to any approved development plan adopted by the City. Developments located within an area that has an approved plan shall comply with the design and construction standards of that approved plan in addition to those contained in this Code. In cases of conflict, the approved plan shall control.

SECTION 5.110 HEIGHT STANDARDS

Building height standards are specified in each Zoning District.

SECTION 5.111 BUILDING HEIGHT EXCEPTIONS

Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers aerials, flagpoles, and similar objects not used for human occupancy shall not exceed the building height limitations of this Code by more than ten (10) feet.

SECTION 5.112 BUILDING PROJECTION EXCEPTIONS

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 30 inches into a required yard.

SECTION 5.113 LOT SIZE

Lot size standards are specified in each Zoning District.

SECTION 5.114 LOT SIZE EXCEPTIONS

If a lot as recorded in the office of the County Assessor at the time of passage of this Code, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the lot-area-per-dwelling-unit requirement of the zone.

SECTION 5.115 YARD SETBACKS

Yard setback standards are specified in each Zoning District.

SECTION 5.116 YARD SETBACK EXCEPTIONS

The following exceptions to the yard requirements are authorized for a lot in any zone:

- (1) In a residential zone, where adjacent parcels have less than the required front setback, the minimum front yard setback may be reduced to one-half of the requirement and that of abutting properties. Garage and carport setbacks shall not be reduced below 20 feet.

- (2) No building shall be erected on a lot that abuts a street having only a portion of its required right-of-way (ROW) dedicated, unless, the yard setbacks are increased to accommodate one-half the required ROW plus the required yard setback.
- (3) The Planning Commission may require additional setbacks, street right-of-way dedications, utility easements and street improvements for development projects that are required to be submitted for review and approval.
- (4) The Planning Commission may reduce the required yard setbacks for special and unusual site conditions in conformance with Section 2.600, Variances where compliance with the setback provisions of this Code would create an undue or unnecessary hardship.

SECTION 5.117 DRAINAGEWAY SETBACKS

All drainageways and watercourses shall have a minimum setback of 20 feet from the center of the drainageway.

SECTION 5.118 MINIMUM SETBACK

In commercial or industrial zones where an interior yard is not required and a structure is not to be erected at the property line, it shall be set back at least 5 feet from the property line to permit access to the building.

SECTION 5.119 SERVICE STATIONS SETBACK EXCEPTIONS

In zones where automobile service stations are permitted, freestanding gasoline pumps and pump stands may occupy a required exterior yard, provided they are a minimum of 15 feet from the property line.

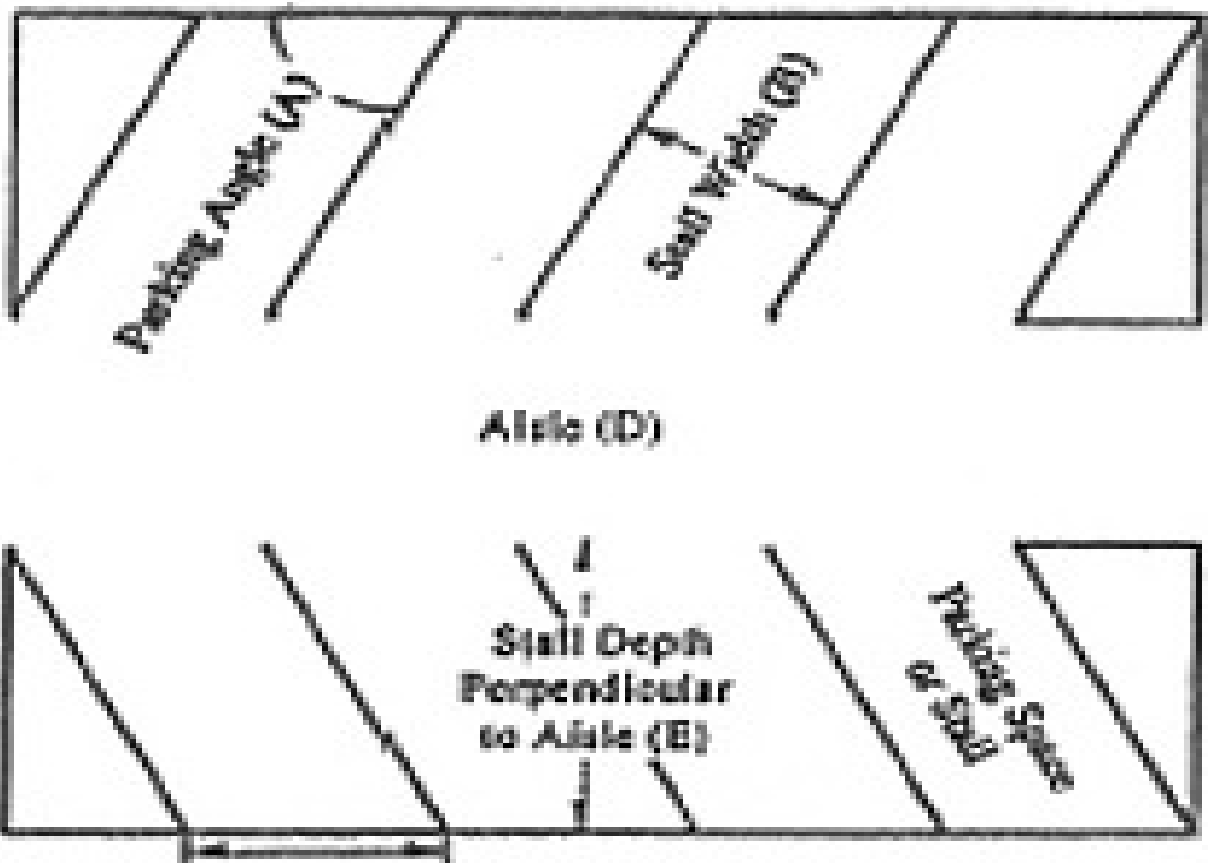
SECTION 5.120 PARKING

For each new structure or use, and for each structure increased in area, and for each change or increase in the use of an existing structure there shall be provided and maintained off-street parking areas in conformance with the provisions of this section.

- (1) **Design and Improvement Requirements for Parking Lots:**
 - (a) All parking areas and driveway approaches shall be surfaced with a minimum of two inches asphaltic concrete, or four inches Portland Cement Concrete, over an approved base unless approved by the City Engineer. All parking areas, except those in conjunction with a single family or two-family dwelling, shall be graded so as not to drain storm water over the sidewalk or onto any abutting property.
 - (b) Service drives and parking spaces on surfaced parking lots shall be clearly and permanently marked. Handicapped Parking must comply with the Oregon Structural Specialty Code.
 - (c) Parking areas for other than single-family and two-family dwellings shall be served by a service driveway so that no backing movements or other maneuvering within a street other than an alley shall be required. One-way driveways shall have a minimum width of 12 feet and a maximum width of 16 feet.

- (d) Design for parking lots and spaces shall conform to the Parking Diagram contained in this Section. Two-way driveways shall have a minimum width of 20 feet and a maximum width of 30 feet.
- (e) The outer boundary and all landscaped islands of a parking area shall be contained by a 6" high curb for protection of landscaping, pedestrian walkways and to contain rainwater runoff. No motor vehicle shall project over the property line.
- (f) All parking areas, except those in conjunction with a single family or two-family dwelling, shall have adequate drainage to dispose of the run-off generated by the impervious surface area of the parking area. On-site collection of drainage water shall not allow sheet flow of water onto sidewalks, public right-of-ways or abutting property and shall detain out-flow velocities to that of undeveloped land. All drainage systems must be approved by the City Engineer.

Parking Diagram – See Following Space and Dimension Matrix



Minimum Parking Space and Aisle Dimensions						
Angle (A)	Type	Width (B)	Curb Length (C)	1-Way Aisle Width (D)	2-Way Aisle Width (D)	Stall Depth (E)
0° (Parallel)	Standard	8 ft.	22 ft. 6 in.	12 ft.	24 ft.	8 ft.
	Compact	7 ft. 6 in.	19 ft. 6 in.	12 ft.	24 ft.	7 ft. 6 in.
30°	Standard	9 ft.	18 ft.	12 ft.	24 ft.	17 ft.
	Compact	7 ft. 6 in.	15 ft.	12 ft.	24 ft.	14 ft.
45°	Standard	9 ft.	12 ft. 6 in.	12 ft.	24 ft.	19 ft.
	Compact	7 ft. 6 in.	10 ft. 6 in.	12 ft.	24 ft.	16 ft.
60°	Standard	9 ft.	10 ft. 6 in.	18 ft.	24 ft.	20 ft.
	Compact	7 ft. 6 in.	8 ft. 6 in.	15 ft.	24 ft.	16 ft. 6 in.
90°	Standard	9 ft.	9 ft.	24 ft.	24 ft.	19 ft.
	Compact	7 ft. 6 in.	7 ft. 6 in.	22 ft.	24 ft.	15 ft.

- (g) Service driveways to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrian and vehicular traffic on the site. The number and location of service driveways shall be approved by the City and limited to the minimum that will allow the property to accommodate and service the traffic anticipated.
- (h) All off-street parking areas within or abutting residential districts or uses shall be provided with a sight-obscuring fence, wall or hedge to minimize disturbances to adjacent residents.

(2) **Location Standards for Parking Lots:**

- (a) Required off-street parking shall be provided on the development site or within 400 feet for commercial or industrial uses.
 - (b) Off-street parking areas may be located in a required yard setback provided a 5 foot wide landscaped buffer and screening, as required in Section 5.134, is maintained at the property line.
- (3) Required parking spaces shall be available for the parking of operable motor vehicles for 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 for repair or servicing.
 - (4) Provisions for and maintenance of off-street parking spaces are continuing obligations of the property owner. No building permit or other approvals shall be issued until plans are presented that show the complete parking layout. The subsequent use of property for which approval is granted shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this Code.

- (5) Should the owner or occupant of a lot or building change the use of the property to a use which increases the off-street parking requirements, it shall be unlawful and a violation of this Code to begin to maintain such altered use until the required increase in off-street parking is provided.
- (6) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.
- (7) Owners of two or more uses, structures or properties may agree to use the same parking spaces jointly provided the off-street parking is the sum of the requirements of the several uses. If the hours of operation do not overlap, the parking requirement shall be for the highest use. An agreement shall be submitted and approved by the City for the cooperative use of the parking facilities.
- (8) A plan, drawn to scale, indicating how the off-street parking requirements are to be fulfilled, shall accompany all requests for City approval or a Building Permit.
- (9) Parking lots shall be provided with landscaping as provided in Section 5.134 (4) and other suitable devices in order to divide the parking lot into sub-units to provide for pedestrian safety, traffic control, and to improve the appearance of the parking lot.
- (10) Off-street parking spaces shall be required as defined in Section 5.121. Fractional space requirements shall be counted as a whole space. When square feet are utilized to determine the required parking spaces, the area measured shall be the gross floor area of the building. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season.

SECTION 5.121 OFF-STREET PARKING REQUIREMENTS

USE	SPACE REQUIREMENT
(1) Residential	
(a) One and two family dwelling	Two spaces per dwelling unit
(b) Multiple family dwelling	Studio .75 space/unit 1 Bedroom 1.00 space/unit 2 Bedroom 1.50 space/unit 3+ Bedroom 2.00 space/unit
(c) Rooming or boarding house	Spaces equal to 80% of the number of guest accommodations, plus one additional space for the manager or owner
(2) Commercial Residential	
(a) Hotel	One space per two guest rooms plus one space per two employees

USE

SPACE REQUIREMENT

(b) Motel	One space per guest room or suite plus one additional space for the owner or manager
(3) Institutional	
(a) Convalescent hospital, nursing home, sanitarium rest home, home for the aged	One space per four beds for patients or residents
(4) Place of Public Assembly	
(a) Church	One space per four seats or eight feet of bench length in the main auditorium, or one space for each 35 sq. ft. of floor area of main auditorium not containing fixed seating.
(b) Library, reading room	One space per 400 sq. ft. of floor area plus one space per two employees
(c) Pre-school nursery, kindergarten	Two spaces per teacher
(d) Elementary, junior high or high school	One space per classroom plus one space per administrative employee or one space per four seats in the auditorium or assembly room, whichever is greater
(4) Place of Public Assembly	
(a) Other public assembly or meeting rooms	One space per six seats or eight feet of bench length, or one space for each 35 sq. ft. of floor area for assembly room not containing fixed seats
(5) Commercial Amusement	
(a) Stadium, arena, theater	One space per four seats or eight feet of bench length
(b) Bowling alley	Five spaces per alley plus one space per two employees
(c) Dance hall, skating	One space per 100 sq. ft. of floor area, plus one space per two employees
(6) Commercial	
(a) Retail store except as provided in subsection (b) of this subsection	One space per 300 sq. ft. of floor area designated for retail sales

<u>USE</u>	<u>SPACE REQUIREMENT</u>
(b) Service or repair shop, retail store exclusively handling bulky merchandise such as automobiles and furniture.	One space per 400 sq. ft. of floor area
(c) Bank, office (except medical and dental)	One space per 400 sq. ft. of floor area
(d) Medical and dental clinic	One space per 300 sq. ft. of floor area
(e) Eating or drinking establishment	One space per 100 sq. ft. of floor area
(f) Mortuary	One space per six seats or eight feet of bench
(7) Industrial	
(a) Storage warehouse, manufacturing establishment, rail or trucking freight terminal	One space per employee
(b) Wholesale establishment	One space per employee plus one space per 700 square feet of patron serving area
(8) Unspecified Uses	Any use not specifically listed in this section shall have the parking requirement determined by the Planning Commission, based on the parking space requirements for comparable uses listed in this section.

SECTION 5.122 ACCESS AND CLEAR VISION AREAS

- (1) Access: Every property shall abut a street other than an alley, for a minimum width of 12 feet, except where the City has approved an easement for access or where the easement existed prior to the adoption of this Code.
- (2) The following access alternatives to Flag Properties may be approved by the City for partitions or, in some circumstances, small subdivisions:
 - (a) Approval of a single access road easement to serve all of the proposed parcels with a provision for conversion to a dedicated public road right-of-way when requested by the City. The easement shall have the same width as a required right-of-way.
 - (b) Approval of a road right-of-way without providing the road improvements until the lots are developed. This places the burden for road improvements on the City

although the City can assess all of the benefiting properties when improvements are provided in the future. As a condition of approval, the City may require an agreement for improvements as a deed condition.

- (c) Approval of a private road that does not have to meet all of the standards for public streets. This approach should only be used for isolated short streets serving a limited number of sites and where future City street alignments will not be needed.
 - (d) All access drives locations shall be approved by the City with County or State approval where their jurisdiction applies.
 - (e) Access drives for corner or through properties shall take their access from the lowest traffic classification of street.
 - (f) Common access drives located at the property line is encouraged and may be required in some locations to limit the number of access locations.
- (3) **Clear Vision Areas:** In all districts a clear vision area shall be maintained at the corners of all property located at the intersection of two streets, a street-alley or a street-railroad. A clear vision area shall also be maintained at all driveways intersecting a street.
- (a) All properties shall maintain a clear triangular area at street intersections, railroad-street intersections, alley-street intersections and driveway-street intersections for safety vision purposes. The two sides of the triangular area shall be 15 feet in length along the edge of roadway at all street intersections and 10 feet in length at all alley-street intersections and driveway-street intersections. Where streets intersect at less than 30 degrees, the triangular sides shall be increased to 25 feet in length. The third side of the triangle shall be a line connecting the two exterior sides.
 - (b) A clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstruction exceeding 2½ feet in height, measured from the top of the curb, or, where no curb exists, from the established street center line grade. Trees exceeding this height may be located in this area, provided all branches or foliage are removed to a height of 8 feet above grade.

SECTION 5.123 STREETS

- (1) The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, and curves appropriate for the traffic to be carried considering the terrain. The arrangement of streets shall provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

- (2) Street design shall conform to the design standards of the City of Corvallis adopted by the City of Monroe. Streets design shall include curb, gutters, sidewalks and utility easements unless specifically excepted by the Planning Commission.
- (3) Right-of-way and roadway widths. The width of streets and roadways shall be adequate to fulfill city specifications as provided for in Article 8 of this Code. Unless otherwise indicated on an adopted City Street Plan, streets should not be less than the recommended minimums:

Where conditions, particularly topography or the size and shape of the tract, make it impractical to otherwise provide buildable sites, narrower right-of-ways may be accepted, if necessary, and replaced with slope, sidewalk or utility easements dedicated on both sides of the right-of-way. Where topographical conditions necessitate cuts or fills for proper grading of streets, additional right-of-ways may be required.

- (4) Reserve Strips: A reserve strip is a 1 foot strip of land at the end of a right-of-way extending the full width of the right-of-way used to control access to the street. Reserve strips will not be approved unless necessary for the protection of the public welfare or of substantial property rights. The control of the land comprising such strips shall be placed within the jurisdiction of the City by deed under conditions approved by the City. In addition, a barricade shall be constructed at the end of the street by the land divider which shall not be removed until authorized by the City. The cost shall be included in the street construction costs by the land divider.
- (5) Alignment: As far as is practicable, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections are discouraged. If necessary, "T" intersections shall have a minimum distance of 150 feet between the center lines of streets having approximately the same direction.
- (6) Future Extensions of Streets: Where necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivisions or partition and the resulting dead-end streets may be approved without a turn-around. Reserve strips may be required to preserve the objectives of street extensions.
- (7) Intersection Angles: Streets shall be laid out to intersect at angles as near to right angles (90 degrees) as practical except where topography require a lesser angle, but in no case shall the acute angle be less than 60 degrees unless there is a special intersection design. Intersections which contain an acute angle of less than 60 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and sufficient right-of-way for the roadway radius to maintain a uniform width between the roadway and the right-of-way line.
- (8) Existing Streets: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of approval of the land division or land use approval.

- (9) Half Street: Half streets, while not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips may be required to preserve the objectives of half streets.
- (10) Cul-de-sac: A cul-de-sac should have a maximum length of 500 feet but may be longer where unusual circumstances exist. A cul-de-sac shall terminate with a circular turn-around with a minimum right-of-way radius of 50 feet.
- (11) Street Names: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the City.
- (12) Grades and Curves: Grades should not exceed 6 per cent on arterials, 10 per cent on collector streets or 12 per cent on other streets. Center line radius of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials or 100 feet on other streets, and shall be to an even ten feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the City may accept steeper grades and sharper curves. In flat areas, allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 per cent.
- (13) Streets Adjacent to Railroad Right-of-way: Wherever the proposed land division contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.
- (14) Frontage Access Streets: Where a land division abuts or contains an existing or proposed Arterial Street, the City may require Frontage Access Streets for property access with a non-access reservation along the arterial to afford separation of through and local traffic.
- (15) Private Streets: Private streets are permitted within Planned Unit Developments, Manufactured Home Parks and singularly owned developments of sufficient size to warrant interior circulation on private streets. Design standards shall be the same as those required for public streets unless approved by the City. The City shall require verification of legal requirements for the continued maintenance of private streets.

- (16) **Railroad Crossings:** Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements shall be born by the land divider unless an equitable means of cost distribution is approved by the City.
- (17) **Traffic Signals:** Where a proposed intersection will result in the need for street signals, they shall be provided by the land divider and the costs shall be born by the land divider unless an equitable means of cost distribution is approved by the City.
- (18) **Street Signs:** Street signs for identification and traffic control shall be provided by the land divider and the costs shall be born by the land divider unless an equitable means of cost distribution is approved by the City.
- (19) **Mail Boxes:** Joint mail boxes may be provided in residential developments. Joint mail box structures shall be placed adjacent to roadway curbs as recommended by the Post Office having jurisdiction and shall be noted on the plan. The cost shall be born by the land divider.

SECTION 5.124 SIDEWALKS

Public sidewalk improvements are required for all land divisions and property development in the City of Monroe. Under approved conditions, the City may defer sidewalks.

- (1) Sidewalks shall be constructed within the street right-of-way. Sidewalk easements shall only be accepted where the Planning Commission determines that full right-of-way acquisition is impractical.
- (2) Sidewalks shall connect to and align with existing sidewalks. Sidewalks may transition to another alignment as part of the approval of the Tentative Plan.
- (3) The Planning Commission may approve alternate sidewalk alignments and widths to accommodate existing conditions or proposals.
- (4) Sidewalks in residential areas should be a minimum of 5 feet in width and shall be installed adjacent to the curb unless a planter strip of at least 4 feet in width is approved adjacent to the curb where sufficient right-of-way is available.
- (5) Sidewalks adjacent to Collector or Arterial Streets shall be a minimum of 5 feet in width separated by a planter strip of 4 feet in width adjacent to the curb where possible. Sidewalks may be approved adjacent to the curb where direct access is required. Sidewalks adjacent to the curb should be a minimum of 7 feet in width or a minimum of 10 feet in width adjacent to Commercial properties. Planter openings adjacent to the curb are encouraged within the 10 foot walks.
- (6) Planter strips and the remaining right-of-way shall be landscaped and incorporated as part of the front yard of adjacent property.
- (7) Maintenance of sidewalks and planters shall be the continuing obligation of the adjacent property owner.

- (8) Midblock Sidewalks. The City may require midblock sidewalks for long blocks or to provide access to schools, parks, shopping, public transportation stops or other community services. Midblock sidewalks shall be raised and shall be at least 6 feet in width.

SECTION 5.125 BIKEWAYS

- (1) Developments adjoining existing or proposed bikeways shall include provisions for connection and extension of such bikeways through dedication of easements or rights-of-way. The City may include bikeway improvements as conditions of approval for developments that will benefit from bikeways. Where possible, bikeways should be separated from other modes of travel, including pedestrian ways.
- (2) Minimum width for bikeways shall be 5 feet per travel lane.

SECTION 5.126 STORM DRAINAGE

It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except within a continuous drainageway. Maintaining proper drainage is a continuing obligation of the property owner.

- (1) General Provisions. All proposed storm drainage system design plans shall be approved by the City. Surface water drainage patterns and proposed storm drainage must be shown on every development plan submitted for approval. The City will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City Engineer.
 - (a) Urban level curb inlets, catch basins, and drainage pipe improvements are required for all land divisions and property development in the City of Monroe. Urban storm drainage systems may be deferred by the City in lieu of a rural system of culverts and open drainageways.
 - (b) All storm water drainage systems shall be separate from and independent of any sanitary sewerage system.
 - (c) Surface water shall not drain across street intersections or allow flooding of the street.
 - (d) Surface water shall not drain across another property unless it is contained in a culvert or natural drainageway easement.
 - (e) Ditches are not allowed without City approval, except natural drainageways or swales may be approved.
 - (f) Site drainage design shall accommodate upstream run-off and the impacts of downstream run-off. Off-site improvements may be required for approval.

- (g) Drainage controls shall be designed to regulate surface water run-off into receiving streams, drainage facilities or onto adjoining properties.
- (2) Natural Drainageways. Open natural drainageways of sufficient width and capacity to provide for flow and maintenance are permitted and encouraged. For the purposes of this Section, an open natural drainageway is defined as a natural path which has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation. Natural drainageways should be protected as linear open space features wherever possible within the community and shall be protected from pollutants and sediments.
- (3) Easements. Where a land division is traversed by a water course, drainageway, channel or stream, there shall be provided a public storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as the City determines will be adequate for conveyance and maintenance. Improvements to existing drainageways may be required of the property owner. The property owner is also responsible for continuing maintenance and protection of natural drainageways.
- (4) Accommodation of Upstream Drainage. A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Engineer must review and approve the necessary size of the facility, based on sound engineering principles and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.
- (5) Effect on Downstream Drainage. Where it is anticipated by the City Engineer that the additional run-off resulting from the development will overload an existing drainage facility, the City may withhold approval of the development until mitigation measures have been approved.
- (6) Drainage Management Practices. Developments within the City must employ drainage management practices approved by the City Engineer that limit the amount and rate of surface water run-off into receiving streams or drainage facilities. Stormwater runoff rates for new developments shall not exceed bare land runoff rates. Drainage management practices must include, but are not limited to one or more of the following practices:
- (a) Temporary ponding or detention of water to control rapid runoff.
 - (b) Permanent storage basins.
 - (c) Minimization of impervious surfaces.
 - (d) Emphasis on natural drainageways.

- (e) Prevention of water flowing from the development in an uncontrolled fashion.
 - (f) Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.
 - (g) Runoff from impervious surfaces must be collected and transported to a natural drainage facility with sufficient capacity to accept the discharge.
 - (h) Other practices and facilities designed to transport storm water and improve water quality.
- (7) Design Requirements for New Development. All new development within the City shall make provisions for the continuation or appropriate projection of existing storm sewer lines or drainageways serving surrounding areas. Drainage extensions may be required-through the interior of a property to be developed where the City Administrator determines that the extension is needed to facilitate upstream flows.
 - (8) NPDES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) requiring permitting.

SECTION 5.127 WATER

- (1) Water Plan Approval. All proposed water plans and systems must be approved by the City as part of the review and approval process.
- (2) Design Requirements for New Development. All new development within the City shall make provisions for the extension of public water lines to serve adjacent areas, and as provided in the Water System Master Plan.
- (3) Water Line Extensions. Water distribution lines must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City as necessary to accommodate likely system expansion. Water line extensions may be required through the interior of properties when necessary to provide service to other properties or to provide system looping for fire flows. All public water system line extensions shall have a minimum 8 inch diameter unless a smaller size is recommended by the City Engineer and approved by the City.
- (4) Water Connections. All new development, including a single family residence, must extend and connect to the public water system when service is available within 200 feet of the property.
- (5) Wells. When public water is not available, one well serving a single property may be approved by the City. Well water may be utilized for irrigation purposes. Irrigation and municipal water shall be separated and shall not be interconnected in any way.

- (6) Hydrants. Fire hydrants, mains, and related appurtenances shall be installed by the developer as required by the Local Fire District.
- (7) Restriction of Development. The City may limit development approvals where a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the proposed development improvements.
- (8) Backflow Preventers. Backflow prevention devices shall be installed on all irrigation systems attached to the municipal water system.

SECTION 5.128 SANITARY SEWERS

- (1) Sewer Plan Approval. All proposed sanitary sewer plans and systems must be approved by the City as part of the review and approval process.
- (2) Design Requirements for New Development. All new development within the City shall make provisions for the extension of sanitary sewer lines to serve adjacent areas, or as provided in the Sanitary Sewer System Master Plan.
- (3) Sewer Line Extensions. Sewer collection lines must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City as necessary to accommodate likely system expansion. Line extensions may be required through the interior of a property to be developed where the City Engineer determines that the extension is needed to provide service to other properties. All public sewer system line extensions shall have a minimum 8 inch diameter unless a smaller size is recommended by the City Engineer and approved by the City.
- (4) Sewer Connections. All new development, including a single family residence, must extend and connect to the public sewer system when service is available within 200 feet of the property.
- (5) On-Site Systems. When Public Sewer is not available, the design and approval of an on-site system may be approved by the City and County. Lot or parcel size and configuration may require adjustments to accommodate on-site systems.
- (6) Restriction of Development. The City may limit development approvals where a deficiency exists in the sewer system or portion thereof which cannot be corrected as a part of the development improvements.

SECTION 5.129 UTILITIES

- (1) It is the intent of the City to place all utilities underground wherever practical except as otherwise provided herein.
- (2) All utilities shall be located underground in subdivisions and partitions.
- (3) All subdivided lots and partition parcels capable of further division in the future shall have a covenant requiring underground utility installations in the Covenants, Conditions and Restrictions for each lot or parcel.

- (4) Exceptions. The City may permit overhead utilities as a condition of approval where the Applicant can demonstrate one of the following conditions:
- (a) Underground utility locations are not feasible.
 - (b) The proposed lots or parcels are large rural lots where the existing properties in the vicinity have overhead utilities.
 - (c) Temporary or emergency installations.
 - (d) Major transmission facilities located within right-of-ways or easement.
 - (e) Industrial developments requiring large power overhead power facilities.
 - (f) Surface mounted structures, substations or facilities requiring above ground locations by the serving utility.

SECTION 5.130 EASEMENTS

- (1) Easements granting limited use of property for any defined purpose may be approved for any lot or parcel.
- (2) Access easements may be approved by the Planning Commission as provided in Section 5.122.
- (3) Utility easements shall be provided for sewers, water mains and public or private utilities necessary to provide full service to all developments. Land dividers shall show on the Tentative Plan and on the final Plat all easements and shall provide all dedications, covenants, conditions or restrictions with the Supplemental Data submitted for review. Unless otherwise specified by the City, standard exterior utility easements adjacent to streets shall be 5 feet wide. Minimum interior utility easements shall be 10 feet wide centered on lot or parcel lines where feasible except for utility pole tieback easements which may be 10 feet in width.
- (4) Water Courses. If a tract is traversed by a water course such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way containing the top of bank, vegetative fringe, and such further width as will be adequate for storm or flood protection and maintenance purposes. Culverts or other drainage facilities shall be large enough to accommodate storm and flood run-off from the entire upstream drainage area and the downstream receiving systems and shall be verified and approved by the City.

SECTION 5.131 BLOCKS

- (1) General: The length, width and shape of blocks shall consider the following:
 - (a) The distance and alignment of existing blocks and streets in the vicinity.

- (b) The need for adequate building site sizes.
 - (c) Street alignments and traffic needs.
 - (d) Topography limitations.
- (2) Size: A block shall have sufficient depth to provide for two tiers of building sites unless topography or the location of adjoining streets justifies an exception. Average block sizes should be approximately 400 feet. No block shall be more than 1,200 feet in length between street corner lines unless approved by the Planning Commission.
- (3) Large Lot or Parcel Block Configurations: In dividing tracts into large rural lots or parcels which at some future time are likely to be redivided, the City may require that the blocks or sites be of such size and shape to provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller urban size.

SECTION 5.132 BUILDING SITES

- (1) Size and shape: The size, width, shape, and orientation of building sites shall be appropriate for the location and use contemplated, and shall comply with the standards of the Zoning District and the other standards of Article 5 specified herein.
- (a) No lot or parcel shall be created or utilized unless there will exist an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use.
 - (b) In areas that will not be served by a public sewer minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality for sewage disposal by septic tank or other approved methods taking into consideration soil structure and water table.
 - (c) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
 - (d) Existing lots or parcels smaller than City standards may be maintained as a conforming use within the district. In accordance with Section 4.080, damaged buildings or structures may be restored to their previous use or destroyed buildings may be replaced in conformance with this Code.
 - (e) Large Lots or Parcels: Large lots or parcels which may be further divided into smaller lots in the future shall be of such size and shape that will accommodate the efficient provision of future streets and lots or parcels of smaller sizes. The land division request may be denied if the proposed lots or parcels do not provide for efficient future divisions and streets.

Large lot or parcel plans must show by dash lines future potential divisions to minimum Code standards prior to approval. Building locations must be within the proposed minimum property lines and setback standards specified herein to facilitate an orderly division and use of the property in the future. Large lot or parcel divisions shall also show future urban street alignments and easements in addition to future urban lot lines on the Tentative Plan.

- (f) Flag Lots or Parcels: Flag lots or parcels are discouraged. They will only be allowed when other alternative means of access as described in Section 5.122, Item (2) cannot be provided. Minimum width for a flag lot access is 12 feet.
- (g) Through Lots and Parcels: Through lots and parcels shall be avoided except where they are essential to the intended use.
- (h) Lot and Parcel Side Lines: The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.
- (i) Building Lines: If special building setback lines are to be established in a land division, they shall be shown on the subdivision or partition Tentative Plan and Plat or, if temporary in nature, they shall be included in the deed restrictions.

SECTION 5.133 GRADING

General grading shall conform to the following standards unless engineered and approved by the City.

- (1) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
- (2) Fill slopes shall not exceed two feet horizontally to one foot vertically.
- (3) The type and characteristics of imported fill soils shall be the same or compatible with the existing soils on the site.
- (4) Fills for streets and building sites shall be engineered and approved by the City.
- (5) All sites shall be graded to direct storm water to City storm sewers or to natural drainage ways.

SECTION 5.134 LANDSCAPING, FENCING AND SCREENING

- (1) This Section shall apply to all developments requiring Site Design Review, and other developments with required landscaping.
- (2) A landscape plan is required that shall conform to the requirements of this Section.
- (3). Landscape Area Standards. The minimum percentage of required landscaping equals:

- (a) Residential Districts: 20 percent of the site.
 - (b) Commercial and Industrial Districts: 10 percent of the site.
 - (c) Public and other Districts: 70 percent of setback adjacent to a public street.
- (4). Landscape Materials. Landscape materials include trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features, as described below:
- (a) Natural Vegetation. Natural vegetation shall be preserved or planted where practicable.
 - (b) Shrubs and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions. As necessary, soils shall be amended to allow for healthy plant growth.
 - (c) “Non-native, invasive” plants shall be prohibited.
 - (d) Hardscape features (i.e., patios, decks, plazas, etc.) may cover up to 60 percent of the required landscape area; except in the Central and General Commercial and all Industrial Districts where hardscape features may cover up to 80 percent of the landscape area. Swimming pools, sports courts and similar active recreation facilities may not be counted toward fulfilling the landscape requirement.
 - (e) Non-plant Ground Covers. Bark dust, chips, aggregate or other non-plant ground covers may be used, but shall cover no more than 50 percent of the area to be landscaped.
 - (f) Tree Size. Trees shall have a minimum caliper size of 1.5 inches or greater, or be 8 feet or taller, at time of planting.
 - (g) Shrub Size. Shrubs shall be planted from 1 gallon containers or larger.
 - (h) Ground Cover Size. Ground cover plants shall be sized and spaced so that they grow together to cover a minimum of 100 percent of the underlying soil within 4 years.
 - (i) Significant Vegetation. Significant vegetation preserved may be credited toward meeting the minimum landscape area standards. Credit shall be granted on a per square foot basis.
 - (j) Storm Water Facilities. Storm water facilities (e.g., detention/retention ponds and swales) shall be landscaped with water tolerant, native plants.
- (5). Landscape Design Standards. All yards, parking lots and required street tree planter strips shall be landscaped in accordance with the provisions of this Chapter. Landscaping shall be installed with development to provide erosion control, visual

interest, buffering, privacy, open space and pathway identification, shading and wind buffering, based on the following standards:

- (a) Provide visual screening and privacy within side and rear yards; while leaving front yards and building entrances mostly visible for security purposes;
- (b) Use shrubs and trees as wind breaks, as appropriate;
- (c) Retain natural vegetation, as practicable;
- (d) Define pedestrian pathways and open space areas with landscape materials;
- (e) Provide focal points within a development, such as signature trees (i.e., large or unique trees), hedges and flowering plants;
- (f) Use trees to provide summer shading within common open space areas, and within front yards when street trees cannot be provided;
- (g) Use a combination of plants for year-long color and interest;
- (h) Use landscaping to screen outdoor storage and mechanical equipment areas, and to enhance graded areas such as berms, swales and detention/retention ponds.
- (i) Parking areas. A minimum of 5 percent of the combined area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of an evenly distributed mix of shade trees with shrubs and/or ground cover plants. "Evenly distributed" means that the trees and other plants are distributed around the parking lot perimeter and between parking bays to provide a partial canopy. At a minimum, one tree per 5 parking spaces total shall be planted to create a partial tree canopy over and around the parking area. All parking areas with more than 20 spaces shall include landscape islands with trees to break up the parking area into rows of not more than 12 contiguous parking spaces. All landscaped areas shall have minimum dimensions of 4 feet by 4 feet to ensure adequate soil, water, and space for healthy plant growth.
- (j) Buffering and Screening Required - Buffering and screening are required under the following conditions:
 - (k) The required screening device shall be no less than 36 inches in height within one year of development and not exceed 42 inches in height unless the street grade dictates otherwise to buffer the parking area.. The design of the wall or screening shall also allow for visual surveillance of the site for security. Evergreen hedges used to comply with this standard shall be of such species, number and spacing to provide the required screening within one year after planting. Any areas between the wall/hedge and the street/driveway line shall be landscaped with plants or other ground cover. All walls shall be maintained in good condition, or otherwise replaced by the owner.
- (l) Parking/Maneuvering Area Adjacent to Building. Where a parking or maneuvering

area, or driveway, is adjacent to a building, the area shall be separated from the building by a raised pathway, plaza, or landscaped buffer no less than 5 feet in width. Raised curbs, bollards, wheel stops, or other design features shall be used to protect buildings from being damaged by vehicles. When parking areas are located adjacent to residential ground-floor living space, a landscape buffer is required to fulfill this requirement.

- (m) Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas, and Automobile-Oriented Uses. All mechanical equipment, outdoor storage and manufacturing, and service and delivery areas, shall be screened from view from all public streets and Residential districts. Screening shall be provided by one or more the following: decorative wall (i.e., masonry or similar quality material), evergreen hedge, non-see through fence, or a similar feature that provides a non-see through barrier. Walls, fences, and hedges shall comply with the vision clearance requirements and provide for pedestrian circulation.
- (6) Maintenance and Irrigation. The use of drought-tolerant plant species is encouraged, and may be required when irrigation is not available. Irrigation shall be provided for plants that are not drought-tolerant. If the plantings fail to survive, the property owner shall replace them with an equivalent specimen. All other landscape features required by this Code shall be maintained in good condition, or otherwise replaced by the owner.
- (7) Additional Requirements. Additional buffering and screening may be required for specific land uses and the City may require additional landscaping through the Conditional Use Permit process.
- (8) Street Trees. Street trees should be planted for all developments that are subject to Land Division or Site Design Review. Planting of unimproved streets shall be deferred until the construction of curbs and sidewalks. Street trees shall conform to the following standards and guidelines:
 - (a) Growth Characteristics. Trees shall be selected based on growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. The following should guide tree selection:
 1. Provide a broad canopy where shade is desired.
 2. Use low-growing trees for spaces under utility wires.
 3. Select trees that can be “limbed-up” where vision clearance is a concern.
 4. Use narrow or “columnar” trees where awnings or other building features limit growth, or where greater visibility is desired between buildings and the street.
 5. Use species with similar growth characteristics on the same block for design continuity.
 6. Avoid using trees that are susceptible to insect damage, and avoid using trees that produce excessive seeds or fruit.
 7. Select trees that are well adapted to the environment, including soil, wind, sun exposure, and exhaust. Drought-resistant trees should be used in areas with sandy or rocky soil.

8. Select trees for their seasonal color, as desired.
9. Use deciduous trees for summer shade and winter sun.

- (b) Caliper Size. The minimum caliper size at planting shall be 1½ inches, based on the American Association of Nurserymen Standards.
- (c) Spacing and Location. Street trees shall be planted within existing and proposed planting strips, and in sidewalk tree wells on streets without planting strips. Street tree spacing shall be based upon the type of tree(s) selected and the canopy size at maturity. In general, trees shall be spaced no more than 30 feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers.
- (d) Soil Preparation, Planting and Care. The developer shall be responsible for planting street trees, including soil preparation, ground cover material, staking, and temporary irrigation for two years after planting. The developer shall also be responsible for tree care (pruning, watering, fertilization, and replacement as necessary) during the first two years after planting.
- (e) Assurances. As an alternative the City may accept a fee or performance bond in accordance with the adopted fee schedule for each required street tree. The fee shall cover the City's expense for planting and the first two years of care.
- (f) Existing trees, plantings and special site features shall be preserved, protected and maintained within the City to the fullest extent possible. Trees shall not be removed without approval of the City for projects requiring review and approval. Trees exceeding 6 inches in diameter shall not be removed from properties within the City without approval of the City unless the tree poses an immediate danger. Building Permit Applications shall include identified tree removals and be approved by the City Administrator.

(9) Fencing may be constructed subject to the following standards.

- (a) Fences, hedges and walls may be located within yard setbacks. Height is limited to 6 feet in required side or interior yards, 3 feet in any required front or exterior yard that abuts a street other than an alley, and 2-1/2 feet in height in a Vision Clearance Area. Except as otherwise provided below:
 1. Corner lots may have a 6-foot fence out to the sidewalk, within six-feet of the curb, or the property line where neither exists that shall extend no further forward than the front of the structure along the exterior yard.
 2. Where a rear yard is the adjacent front yard the owner shall provide for a vision clearance area that measures no less than 7.5-feet along the fence line as otherwise allowed.
 3. In residential front yards chain-link type fences that do not have vegetation growing on them or that do not have other vision obstruction are permitted to a maximum height of 4 feet above grade.

- (b) Fences and walls shall not be constructed of or contain any material which would do bodily harm such as razor wire, broken glass, spikes, or any other hazardous or dangerous materials.
- (c) Barbed Wire Fences are prohibited, except in approved agricultural areas. Barbed wire may be placed above the top of other fencing in industrial or educational zones. The barbed wire must not be less than 6'-6" above grade.
- (d) Electric Fences are prohibited, unless they are:
 - 1. Completely enclosed inside a property boundary by a barrier type fence that satisfies this Code.
 - 2. On the outer boundary of the city limits bordering the County.
- (e) Protective fences other than those specified herein shall comply with State Laws and shall be submitted for approval of the City.
- (f) Sight-obscuring fences, walls or landscaping may be required to screen objectionable activities as part of the City's review and approval process. Sight-obscuring means 75% opaque when viewed from any angle at a point 25 feet away. Vegetative materials must be evergreen species that meet this standard year-round within 3 years of planting.
- (g) Hedges: A hedge or other dense landscaping may satisfy a requirement for a sight obscuring fence where required. However, no such hedge shall be grown or maintained at a height greater than that permitted by the regulations for a fence or wall in a vision clearance area.
- (h) Retaining Walls: Where a retaining wall protects a cut or fill, and is in a line separating lots, the retaining wall may be topped by a fence, wall or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed.
- (i) Berms: Where an earthen berm over 18" high is proposed, the dimensions shall be submitted to the Planning Commission for approval. The berm may be topped by a fence, wall or hedge to the same combined height that would otherwise be permitted at the location. In front yards vision obscuring fences and berms shall not exceed a height of 3 feet from the grade prior to construction of the berm.
- (j) Maintenance: Fences shall be structurally maintained in a safe condition of repair and shall not be allowed to become, and/or remain, in a condition of disrepair including, but not limited to, noticeable leaning, missing sections, broken supports, and growth of noxious vegetation. Enforcement shall be administered as specified in Section 1.180.
- (k) In any industrial or educational zones, fences or walls not to exceed eight feet in height and in any commercial zone, fences or walls not to exceed six feet in height

may be located or maintained in any yard except a front yard or where requirements of vision clearance apply.

- (l) Privacy screens are a section of solid fencing in front yard that blocks direct vision into or out of a door or window. Privacy screens are permitted in residential front yards. Front yard privacy screens shall be setback at least 15' from the front or street side property line or not more than 10'-0" in front of the residence. Privacy screens shall not extend more than 2'-0" beyond either side of the entry area doorway or window. Front yard privacy screens shall not be more than 6'-0" high.
- (m) Fences must comply with Section 5.122, Clear Vision Areas.

(10) **Parking Areas.**

- (a) Parking lots shall be screened from abutting residential land uses by a combination of fences, walls, and landscaping adequate to provide privacy and separation for the abutting land use.
- (b) A minimum of three (3) percent of the space given to vehicular circulation such as driveways, driveway easements, or open parking areas shall be in landscaping and trees evenly distributed throughout. Curbed landscaped islands and trees shall be provided at the ends of parking rows and long rows of parking spaces shall be interrupted by intermediate landscaped islands. The minimum dimension of the landscape including the boundary edge shall be three (3) feet and the landscaping shall be protected from vehicular damage by a curb or wheel guard.
- (c) Where parking areas project into required yards, the remaining yard shall be landscaped to provide screening of the parking area.

- (11) **Service Facilities.** Garbage collection and service areas and facilities located outside the building shall be appropriately screened and landscaped.

SECTION 5.135 EXTERIOR LIGHTING

Exterior lighting shall be located in such a manner so as not to face directly into on-coming traffic or into adjacent residences.

SECTION 5.136 SIGNS

Signs include any writing (including letters, words or numerals); pictorial representation (including murals, illustrations or decorations); emblem (including devices, symbols or trademarks); flag (including banners or pennants); identification displays (including objects, inflatables or balloons); or any other device used to inform, attract attention or advertise that is visible from a public right-of-way.

(1) **General Sign Provisions:**

- (a) Each sign or outdoor advertising display shall be located on private property.
- (b) Signs may be illuminated by indirect or internal lighting. Lighting and signs shall not, by light, brilliance, type, design, or character, create a public or private

nuisance or interfere with traffic or limit visibility, and shall not produce glare into residences. The use of flashing or rotating lights is prohibited.

- (c) No sign shall be constructed or erected such that the vision clearance area or other areas necessary for a safe sight distance by the traveling public would be inhibited or impaired.
- (d) Sign materials and design elements should be complimentary to those used in development.
- (e) All attached or freestanding signs shall be engineered and comply with the State of Oregon Structural Specialty and Life Safety Code and the adopted Electric Code for any electrically powered signs.
- (f) Any freestanding or projecting sign may be double-faced.
- (g) All signs, together with their supporting structure shall be maintained in a safe, clean and attractive condition.
- (h) Abandoned signs that no longer apply to the property shall be removed by the property owner within 90 days of disuse.

(2) **Permitted Signs**

- (a) Any on-site sign specifically identified as permitted herein.
- (b) Signs existing at the date of adoption of the sign provisions.
- (c) Flags of national, state or local government.
- (d) Signs placed by local, state or federal agencies.
- (e) Public safety and convenience signs including parking and directional signs, open/closed and business hour signs, restroom and other locational signs not exceeding 8 square feet in area.
- (f) Temporary seasonal signs and decorations subject to safety and nuisance standards.
- (g) Temporary signs and construction project signs not exceeding 32 square feet in area per street frontage for the duration of the event.

(3) **Permitted Residential Sign Standards**

- (a) One name plate not exceeding one 2 square foot in area, placed flat against the building for each dwelling or Home Occupation as defined in Section 6.101 of this Code.

- (b) One Temporary Freestanding Subdivision or Manufactured Home Parks sales sign per street frontage not exceeding 32 square feet in area per sign.
- (c) One non-illuminated temporary sign not exceeding 6 square feet in area for real estate purposes, garage or personal property sales, or political advertisement.
- (d) One Freestanding Ground level identification sign per street frontage for Subdivisions, Apartment complexes or Manufactured Home Parks not exceeding 6 feet in height or 32 square feet in area per sign.

(4) **Permitted Commercial & Industrial Sign Standards**

- (a) One Surface Wall or Window Sign per street frontage.
- (b) One Projecting Sign per street frontage not exceeding 75 square feet in area per business. Projecting signs shall have a minimum clearance of 8 feet in pedestrian areas and 15 feet over parking or drive areas.
- (c) One Freestanding Ground level sign per street frontage of a property not to exceed 6 feet in height or 75 square feet in area per sign.
- (d) One Temporary business or property sales sign per street frontage not exceeding 32 square feet in area per sign.

(5) **Signs Requiring Approval**

The following signs may be permitted subject to a Site Plan Review and approval by the Planning Commission.

- (a) Any on-site sign not specifically identified herein or signs exceeding the standards specified herein.
- (b) Rooftop signs.
- (c) Moving electronic message signs.
- (d) Business Flags and Identification Displays.
- (e) Freestanding Elevated Signs limited to one per street frontage of a property not to exceed 20 feet in height or 100 square feet in area. Elevated signs shall have a minimum clearance of 8 feet in pedestrian areas and 15 feet over parking or drive areas.
- (f) Billboards or Outdoor Advertising signs exceeding 150 square feet.
- (g) Any off-site sign and any sign placed within a public right-of-way by other than a public agency.

(6) **Application Information**

Applications for signs requiring approval shall conform to Section 2.140 and Section 2.400 of the Monroe Land Use Development Code and shall include:

- (a) A Site Plan showing the sign locations on site.
- (b) Building elevations showing sign locations.
- (c) Sign construction showing dimensions, area, height, and structure.
- (d) Sign design showing lettering, logos, symbols, materials, colors, and method of illumination.

SECTION 5.137 SOLAR ENERGY ACCESS

- (1) **Purpose.** Because of the existing shortage of conventional energy sources, it has been determined to be in the public interest to encourage the use of solar energy for the heating and cooling of buildings. As a general rule existing zoning regulations for height, setback, and lot density limitations in residential areas permit adequate access to sunlight by each lot without obstruction by adjacent structures. Trees, particularly coniferous trees, should be planted in such a manner as to prevent the casting of shadows upon solar collectors. However, where existing zoning is insufficient to provide adequate protection from interference by structures, trees or topography, it is the intent of this section to provide an additional means to obtain protection from obstruction of the sun. It is the intent of this section to provide adequate protection for the use of solar collectors without at the same time causing undue hardships on the rights of property owners.
- (2) **Definitions.**
 - (a) **Solar Easement.** A volume of airspace extending above a plane sloping upward to the south at an angle from the horizontal of 22 degrees intended to preserve a window of exposure to the sun for solar collectors.
 - (b) **Solar Collector.** Any device relying upon direct solar radiation that is employed in the collection of solar radiation for heating and/or cooling of a structure or building.
- (3) **Use Permitted.** The use of solar energy collectors for the purpose of providing energy for heating and/or cooling is a Permitted Use within all zones, whether as a part of a structure or incidental to a group of structures in the nearby vicinity. Use of solar energy collectors is subject to the restraints imposed by the diversity of topography within the City plus the zoning, height and setback limitations contained within this Code, and existing coniferous trees. No guarantee is hereby given that all property within the City is entitled to access. However, as a general policy, reasonable care should be taken to protect the opportunity for the utilization of solar collectors at all of the locations available.

- (4) **Protection of Solar Access.**
- (a) Airspace easements shall be maintained to establish a window of exposure to the sun so as to protect an existing or intended solar collector's exposure to the sun from obstruction by buildings and trees.
 - (b) Any person seeking a building permit to construct or modify an existing structure or building so as to increase the consumption of airspace shall certify in writing that no airspace solar easement is violated on an adjacent lot. Should the Building Department determine that the proposed construction intrudes upon the solar easement, no building permit shall be granted unless a release is obtained from the adjacent property owner.
- (5) **Variances.** Variances in accordance with Section 2.600 may be granted from zone restrictions such as height, setback, and lot density where such variances are necessary to permit unimpaired access to the sun during the hours of 10:00 am to 2:00 pm so long as such variances do not interfere with an existing solar collector to any degree or preclude the construction of a solar collector on property within the vicinity and is not otherwise injurious to adjacent property. No variance shall be granted from the height limitation or side yard setback limitation in any zones where such a variance would be upon the northerly property boundary, unless the applicant establishes that such a variance will not adversely affect an existing solar collector or the opportunity to reasonably install a solar collector upon a northerly adjacent property.
- (6) **Solar Orientation of Developments.** If, for the reason of solar orientation, an entire area is developed cooperatively or as a unit, all yard regulations may be varied to carry out the solar access purpose, providing that such a development will not be injurious to adjacent property.

ARTICLE 6 USE STANDARDS

SECTION 6.010 USE STANDARDS

In addition to the Development Standards specified in Article 5, there are also uses that may occur in more than one district. The following Sections specify development standards applicable to specialized uses within the City of Monroe.

SECTION 6.100 ACCESSORY DWELLINGS. Accessory dwelling (attached, separates, cottage, or above detached garage). An accessory dwelling is a small, secondary housing unit on a single-family lot. The additional unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house. The housing density standard of the Residential District does not apply to accessory dwellings, due to the small size and low occupancy level of the use. The following standards are intended to control the size and number of accessory dwellings on individual lots, so as to promote compatibility with adjacent land uses. Accessory dwellings shall comply with all of the following standards:

- (a) Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code;
- (b) Owner-Occupied. The primary or accessory dwelling shall be owner-occupied. Alternatively, the owner may appoint a family member as a resident care-taker of the principal house and manager of the accessory dwelling;
- (c) One Unit. A maximum of one accessory dwelling unit is allowed per lot;
- (d) Floor Area. The maximum floor area of the accessory dwelling shall not exceed 600 square feet;
- (e) Building Height. The building height of new detached accessory dwellings (i.e., separate cottages) shall not exceed 25 feet or the height of primary dwelling, which ever is less; and
- (f) Buffering. A minimum 4-foot hedge or fence may be required to buffer a detached accessory dwelling from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas by either the occupants or adjacent residents.

SECTION 6.101 HOME OCCUPATION STANDARDS

A Home Occupation is a Permitted Use in any residential district and must comply with the following additional standards:

- (1) The home occupation shall be secondary to the main use of the dwelling as a residence.
- (2) All aspects of the home occupation shall be contained and conducted within a completely enclosed building.

- (3) The home occupation shall be limited to less than 25% of the floor area of the main floor of a dwelling. If located within an accessory structure or a garage, the home occupation shall not utilize over 500 square feet of floor area unless approved by the Planning Commission as home business via the Conditional Use Permit process.
- (4) No more than 2 persons other than members of the immediate family residing within the dwelling shall be engaged in the home occupation.
- (5) No window display or sample commodities displayed outside the dwelling shall be allowed.
- (6) No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or any nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or any other factor.
- (7) No parking of customer vehicles in a manner or frequency that would cause disturbance or inconvenience to nearby residents or that would necessitate off-street parking shall be allowed.
- (8) No signs shall be permitted except for a single name plate not to exceed 2 square feet in area.

SECTION 6.102 RESIDENTIAL CARE HOME STANDARDS

Residential Care Homes are a permitted use in a dwelling located within any residential district and in commercial districts allowing single-family dwellings as follows:

- (1) Residential Care Homes for 5 or less people as provided in ORS 197.660 -670.
- (2) Group Child Care Home for 12 or less children as provided in the applicable provisions of ORS 657 A.
- (3) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced in order to provide for the safety and privacy of those at the facility.
- (4) The Care Home shall be readily accessible for people with disabilities and fire or other emergency access.
- (5) The Care Home shall meet all applicable state licensing requirements. Proof that these requirements are met shall be submitted to the City for inclusion in the Record File.

SECTION 6.103 RESIDENTIAL CARE FACILITY STANDARDS

A Residential Care Facility, other than a private residence, for more than 12 children or for more than 5 adults may be allowed in Residential Districts in accordance with the Conditional Use provisions of Section 2.500 provided municipal water and sewer service is available with the following additional standards:

- (1) A Residential Care Facility shall be used if more than 12 children are cared for or if more than 5 people are to be enrolled or cared for at the facility. Residential Care Facilities are a Conditional Use in residential districts and shall be sufficiently buffered from abutting residential property to minimize adverse impacts.
- (2) Requirements for front, rear, side and street side yards, for Care Facilities may be increased from the District standards in which the facility is located under the Conditional Use procedures.
- (3) Additional landscaping, privacy fencing, buffers or other screening devices may be required to screen or protect the facility or adjacent properties under the Conditional Use procedures.
- (4) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced in order to provide for the safety and privacy of those at the facility.
- (5) The Care Facility shall be readily accessible for people with disabilities and fire or other emergency access.
- (6) The Care Facility shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.

SECTION 6.104 MULTIPLE-FAMILY STANDARDS

Multiple-Family housing is allowed in the GRB residential zone in accordance with the Site Plan Review Provisions provided municipal water and sewer service is available.

- (1) Minimum Lot Area - One Acre
- (2) Maximum Density - 12 Units per Acre unless approved by the Planning Commission.
- (3) The City may require establishment of deed covenants, conditions and restrictions (CC&Rs) or other conditions including but not limited to any of the following where such are deemed necessary for the mitigation of potential adverse impacts on a neighborhood or adjacent areas:
 - (a) Regulate or limit the type of dwelling units.
 - (b) Additional landscaping or screening on the property boundary.
 - (c) Increased building setbacks from property boundaries. Front, rear, side and street side yard setbacks for multiple-family housing may be increased by one (1) foot for each foot by which the building height exceeds sixteen feet.
- (4) On-site bicycle storage facilities, bicycle paths and pedestrian ways shall be provided for developments exceeding six dwelling units.

SECTION 6.105 SAVED FOR FUTURE REFERENCE

SECTION 6.110 MANUFACTURED HOME (MH) STANDARDS

The following Sections contain additional development standards for all manufactured dwelling developments within the City on individual lots. The standards contained herein are intended to support suitable living environments for residents of manufactured homes and to increase compatibility with adjacent land uses.

SECTION 6.111 GENERAL PROVISIONS

- (1) Manufactured homes on individual lots. Manufactured homes are allowed on individual lots, subject to all of the following design standards, consistent with ORS 197.307(5).
 - (a) Floor Plan. The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 sq. ft;
 - (b) Roof. The manufactured home shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees);
 - (c) Residential Building Materials. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered “superior” to metal siding and roofing);
 - (d) Garages and Carports. The manufactured home shall have a garage or carport constructed of like materials when nearby residences within 200 feet of the property have carports or garages. The City may require an attached or detached garage where that would be consistent with the predominant construction of immediately surrounding residences;
 - (e) Thermal Envelope. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code. Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturers certification shall not be required;
 - (f) Placement. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and comply with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home; and
 - (g) Foundation Skirt. The foundation area of the manufactured home shall be fully skirted.

SECTION 6.114 TEMPORARY MANUFACTURED HOME USE

- (1) **Application:** Applicants for a temporary use permit shall make written application for a Site Plan Review on the City's Application Form. The Planning Commission may grant approval for a Temporary Manufactured Home or Recreational Vehicle use subject to the Site Plan Procedures of Section 2.400. The Applicant shall provide a statement of intended use and the estimated length of time for the temporary use on the application form and shall submit the site plan information specified in Section 2.140. The temporary use shall be subject to a annual review by the City.

- (2) **Approved Uses:** A temporary Manufactured home use may be granted for the following uses:
 - (a) A manufactured home as a temporary accessory dwelling as a medical hardship when authorized by a licenses physician. The manufactured home and all accessory elements shall be removed within 60 days of non occupancy by the designated member.
 - (b) Temporary on-site residence for owners whose home is under construction or a home that has been destroyed.
 - (c) Caretaker residence for a commercial or industrial facility.
 - (d) Temporary offices accessible to the general public for use during construction or remodeling.
 - (e) Temporary building space for public and semi-public agencies.
 - (f) Other temporary uses may be considered by the Planning Commission under the Conditional Use procedures.

- (3) **Conditions of Use:** The Temporary Use Permit may be limited to a specified time period and for use on a single lot in accordance with the following provisions:
 - (a) Compliance with the State of Oregon Manufactured Dwelling Installation Standards.
 - (b) Manufactured homes shall not be included or sold as a part of any property on which it is located.
 - (c) Manufactured homes shall not be expanded or attached to a permanent structure.
 - (d) Manufactured homes shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral.
 - (e) Use shall be limited to the function as set forth in the application for the temporary permit.

- (f) The manufactured home shall comply with residential setback requirements and shall be sited so as to have the least possible impact on adjacent properties or adjoining streets.
- (4) **Renewal:** The permit as issued shall not exceed the designated approval period. The City shall notify holders of a permit at least thirty (30) days prior to the date of expiration. Applicants for renewal of a temporary use permit shall reapply and submit the same information as required for the original permit.
- (5) **Right of Revocation:** The City shall have the right to revoke any Temporary Use Permit granted under this Section. If upon inspection, the use is found to be in noncompliance with the application for which the permit is issued, the City shall notify the owner and seek compliance as specified in Section 1.180.
- (6) **Removal:** If the temporary use is required to be removed from the site, the owner of the property shall remove the foundation and all additions to the unit and permanently disconnect and secure all utilities. The City may perform the work and place a lien against the property for the cost, after 60 days from the date on which the unit is required to be moved from the site. This condition shall not apply in the event that another approved unit is placed on the original foundation within 60 days of the removal of the original unit.

ARTICLE 7 IMPROVEMENT REQUIREMENTS

SECTION 7.100 IMPROVEMENT PROCEDURES

In addition to other requirements, public improvements and connections to public facilities installed by a developer or land divider shall conform to the requirements of this Code and all design standards and construction specifications of the City, and shall be installed in accordance with the following procedure.

- (1) Improvement work shall not be commenced until plans and specifications have been reviewed and approved by the City. To the extent necessary for evaluation of an Application, the plans may be required before approval of a Site Plan or land division Tentative Plan.
- (2) Improvement work shall not commence until after the City is notified, and if work is discontinued for more than 7 days, for any reason, it shall not be resumed until after the City is notified.
- (3) Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in the design and construction in the public interest if unusual conditions arise during construction to warrant the change. The cost of City inspections shall be paid by the developer or land divider.
- (4) Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing, or resurfacing, of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be located to prevent the necessity for disturbing the street improvements when service connections are made.
- (5) "As-built" drawings and specifications of the installed public improvements shall be filed with the City upon completion of the improvements.
- (6) Facilities serving a land division or development may require off-site improvements to serve the proposed land division or development. The design and cost of off-site improvements shall be the responsibility of the Applicant unless the City agrees to another arrangement.
- (7) In the event the City determines it is impractical or not currently necessary to provide some of the required improvements, the City may authorize an agreement to pay for future improvements in the form of CC&R's attached to the deed of each property, or the improvements may be installed in the area under special assessment financing or other facility extension policies of the City.
- (8) In the event required off-site improvements will serve other properties, the City may authorize the formation of a Limited Improvement District or other assessment means of sharing the cost of improvements among benefitting properties.

- (9) The City may limit or restrict land divisions or development where facility deficiencies cannot be corrected or improved to fulfill the proposed need or the Applicant refuses to provide the needed improvements.

SECTION 7.200 SPECIFICATIONS FOR IMPROVEMENTS

The design and construction standards of the City of Corvallis have been adopted by the City of Monroe in Article 8 although they may not address each situation. The developer or land divider shall prepare and submit to the City for review and approval, plans and specifications in compliance with this Code and other applicable City ordinances. Where specific City standards are lacking, the plans and specifications shall comply with the intent of this Code based upon engineering standards appropriate for the improvements proposed. Specifications shall be prepared for the design and construction of all required public improvements and such other public facilities the developer installs.

SECTION 7.300 REQUIRED IMPROVEMENTS

The following improvements shall be installed to serve each development and each property in a subdivision or partition at the expense of the developer or land divider. However, if the Planning Commission finds that conditions make installation of some improvements unnecessary at the time of development or land division of the property, the Planning Commission may defer those improvements by requesting a deed CC&R agreement to pay for future improvements benefiting the property. In lieu of deferring an improvement, the Planning Commission may recommend to the City Council that the improvement be installed in the area under special assessment financing or other facility extension policies of the City.

- (1) Streets: Public or private streets, adjacent to, or within the development or land division shall be improved. Curbs, gutters and catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways. Upon completion of the street improvement, monuments shall be re-established and protected.
- (2) Railroad Crossings: Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements shall be born by the developer or land divider unless an equitable means of cost distribution is approved by the City.
- (3) Street Name Signs: Street name signs shall be installed at all street intersections to City standards.
- (4) Street Lights: Street lights shall be installed and shall be served from an underground utility.
- (5) Traffic Signals: Where a proposed intersection will result in the need for street signals to serve the increased traffic generated by the proposed development, they shall be provided by the developer or land divider and the costs shall be born by the developer or land divider unless an equitable means of cost distribution is approved by the City.
- (6) Mail Boxes: Joint mail boxes may be provided in residential developments. Joint mail box structures shall be placed adjacent to roadway curbs as directed by the Post Office

having jurisdiction and shall be noted on the Site Plan. The cost shall be born by the developer or land divider.

- (7) Surface Drainage and Storm Sewer System: Drainage facilities shall be installed to serve the development or land division, provide for extension beyond the property, and connect to drainage ways or storm sewers outside the property. Improvements shall be based upon approved design plans to accommodate the capacity, grade and controls necessary to maintain unrestricted flow from areas draining through the property and shall provide improvements to the drainage system beyond the property where required.
- (a) It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site drainage is required and downstream improvements may be required to accommodate flows. The Owner shall provide proper drainage and shall not direct drainage across another property except within a continuous drainageway. Maintaining proper drainage is a continuing obligation of the property owner.
 - (b) Upstream flows shall be accommodated and downstream flows must limit impacts on downstream properties. There shall be no increased impacts from the proposed development on the Bower Slough drainage system.
 - (c) Site drainage design shall limit off-site impacts to those that would occur from vacant land. Roof drains, paving and catch basin out-flows shall require detention facilities and/or other discharge controls. All storm drains shall be connected to the detention pond inlet piping. This system must be engineered by the Applicant utilizing the "ODOT Rationale Method" to control runoff rates that may be expected in a 10 year, 24 hour return storm event and approved by the City.
 - (d) All drainage plans, calculations and work sheets shall be reviewed and approved by the City Engineer prior to issuance of a Building Permit.
 - (e) A Wetlands Delineation and Mitigation Plan shall be required for identified wetlands and shall be provided by the Applicant prior to building permit approval.
 - 1. No development shall be permitted within designated wetlands unless a permit has been acquired from DSL and any other regulatory agency having jurisdiction.
 - 2. The City shall not provide sewer service to any new structures or development which would encroach upon or adversely affect any designated wetlands within the City Limits or Urban Growth Boundary.
- (8) Sanitary Sewers: Sanitary sewers shall be installed to serve the development or land division, provide for extension beyond the property and to connect the property to existing mains. Connection to City mains may entail installation of pump stations and larger mains to serve the proposed development at the developer's or land divider's expense. System design shall provide increased size and grades to accommodate extension of the system

beyond the property or land division. If required sewer facilities will, without further sewer construction, directly serve property outside the subdivision, the following arrangements will be made to equitably distribute the cost:

- (9) **Water System:** A water system shall be installed to serve the development or land division, provide for extension beyond the property, and to connect the system to existing mains. All land divisions or new developments shall connect to the City water system. Fire hydrants, mains and related appurtenances shall be installed by the developer as required by the City. Off-site improvements including over sizing and alignments may be required at the developer's expense if required to adequately serve the property and lands beyond the proposed development.
- (10) **Sidewalks:** Sidewalks are required on both sides of a public street and in any pedestrian way extending through a development or land division, except that in the case of primary or secondary arterials, or special type industrial districts, the Planning Commission may approve a development or land division without sidewalks if alternative pedestrian routes are available.
- (11) **Bicycle Routes:** If appropriate to the extension of a system of bicycle routes, existing or planned, the Planning Commission may require the installation of separate bicycle lanes within streets or separate bicycle paths.
- (12) **Utilities:** The developer shall make necessary arrangements with serving utility companies for the installation of underground lines and facilities.

SECTION 7.400 PUBLIC USE DEDICATIONS

- (1) Within or adjacent to a residential subdivision, a parcel of land of not less than six percent of the gross area of the subdivision shall be set aside and dedicated to the public by the developer for park use. The parcel shall be approved by the Planning Commission as being suitable and adaptable for park and recreation uses. In the event no such area is suitable for park and recreation purposes, the developer shall, in lieu of setting aside land, pay into a public land acquisition fund a sum of money equal to \$11,000 per gross acre for each acre in the subdivision. The sums so contributed shall be used to aid in securing suitable areas for park and recreation purposes to serve the area containing the subdivision. If the nature of the subdivision is such that over 34 per cent of the tract to be subdivided is being dedicated to the public for streets, the requirements of this section shall be reduced so that the total obligation of the subdivider does not exceed 40 per cent.
- (2) If the City or any other public agency has an interest in acquiring a portion of a proposed land division for a public purpose not already dedicated as a condition of approval, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the Planning Commission may require that those portions of the land division be reserved for public acquisition. The public agency will have sixty (60) days to file Notice of Condemnation.

SECTION 7.510 AGREEMENT FOR IMPROVEMENTS

Before City approval of a development, site plan or land division, the developer or land divider shall file with the City an agreement between developer or land divider and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the developer or land divider. The agreement shall also provide for reimbursement of the City's cost of inspection per Section 7.100 (3).

SECTION 7.520 SECURITY

- (1) The developer or land divider shall file with the agreement, to assure full and faithful performance thereof, one of the following:
 - (a) A surety or performance bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney; or
 - (b) A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement to the satisfaction of the City Council; or
 - (c) A cash or negotiable security deposit.
 - (d) An irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005.
 - (e) A mutual improvement agreement or other guarantees approved by the City.
- (2) Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspections and other costs.

SECTION 7.600 NONCOMPLIANCE PROVISIONS

- (1) If the developer or land divider fails to carry out provisions of the agreement, the City shall provide written notice to the developer or land divider and the surety specifying the details of noncompliance. Unless the City allows more time for compliance because of circumstances beyond the developer or land divider's control, within 30 days after receiving the notice, the developer or land divider or the surety shall commence compliance and proceed diligently to comply with the agreement.
- (2) If the land divider or the land divider's surety does not begin compliance within the 30 days or the additional time allowed by the City, or compliance is not completed within the time specified in granting the land division approval, the City may take the following action:

- (a) Notify the developer or land divider and the surety of the developer or land divider's failure to perform as required by this Code and the agreement.
 - (b) Demand payment from the developer or land divider or the developer or land divider's surety for the unfulfilled obligation.
 - (c) Enter upon the site and carry out the obligation in accordance with the provisions of the approval and agreement.
 - (d) If the security for the obligation is a performance bond, notify the surety that reimbursement for City expenses for fulfillment of the obligation is due and payable to the City. If the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup City expenses.
 - (e) Void all approvals granted in reliance on the agreement.
- (3) If the bond or other required security is not sufficient to compensate the City for expenses incurred to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City upon the entire contiguous real property of the owner of the land subject to the obligation.
 - (4) The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the land divider's failure to fulfill the required obligation.
 - (5) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
 - (6) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the City to pursue any civil remedy permitted by law.

ARTICLE 8 DESIGN AND CONSTRUCTION STANDARDS

SECTION 8.100 ADOPTED DESIGN AND CONSTRUCTION STANDARDS

The City of Monroe hereby adopts the latest edition of the Oregon Standard Specifications for Construction and the Oregon Standard Drawings for all public improvements including, but not limited to, improvements and extension of the water system, sanitary sewer system, storm sewer system, and streets, sidewalks, and driveways.

The City will maintain a current copy of the Design and Construction Standards together with all amendments and/or addendums published by the State of Oregon and those permanent modifications made in accordance with Section 8.200 (2) below.

SECTION 8.200 MODIFICATIONS PERMITTED

The City is authorized to review and approve modifications to the adopted Design and Construction Standards of the State of Oregon for use within the incorporated boundaries of the City of Monroe. Such modifications may be made upon written request from a developer or contractor designing and/or constructing public improvements within the City of Monroe and such modifications may be approved on a one-time basis or be adopted permanently. Permanent modifications require the approval of the City Council.

- (1) One-time Modifications: The City may approve one-time modifications for a particular public improvement upon written request, if in the opinion of the City Engineer, the requested modification is necessary in order to complete the improvement and the modification would not adversely impact safety or the life span and quality of the system, or the maintenance and repair requirements.
- (2) Permanent Modifications: If, in the opinion of the City Engineer, a particular State standard is not applicable to or appropriate for public improvements within Monroe, he may, with the concurrence of the City Council permanently modify such standard. Such modifications will be provided in writing and placed as an addendum to the adopted City of Corvallis standards in a form determined by the City. Once a permanent modification has been approved, it becomes part of the established public improvement Design and Construction Standards for the City of Monroe.

SECTION 8.300 APPLICABILITY OF BENTON COUNTY STANDARDS:

For public improvements that are constructed within the public rights-of-way owned and controlled by Benton County, coordination is required with Benton County Public Works Department and required permits must be obtained. In the event of a conflict between the City of Monroe's adopted Design and Construction Standards and those of Benton County, Benton County standards will take precedence unless jointly agreed upon by Benton County Public Works Department and the City of Monroe.