

# FOSSIL ZONING ORDINANCE

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## Ordinance No. 417

### FOSSIL ZONING ORDINANCE

The City of Fossil, Wheeler County, Oregon, ordains as follows:

#### Article 1

#### Introductory Provisions

SECTION 1.1 – TITLE. This ordinance shall be known as the City of Fossil Zoning Ordinance.

SECTION 1.2 – PURPOSE.

- (1) To implement the Fossil Comprehensive Plan as adopted by the Fossil City Council.
- (2) To comply with ORS Chapter 227 and 197.
- (3) To promote the public health, safety and welfare of the citizens of the City of Fossil.
- (4) To repeal and replace Ordinance No. 206, and all amendments thereto.

SECTION 1.3 - DEFINITIONS. As used in this ordinance, the singular includes the plural and the masculine includes the feminine and neuter; the word "may" is discretionary, the word "shall" is mandatory. The following words and phrases shall mean:

- (1) ACCESS. The way or means by which pedestrians and vehicles enter and leave property which is commonly open to use by the public.
- (2) ACCESSORY USE OR ACCESSORY STRUCTURE. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.
- (3) ALLEY. A street which affords only a secondary means of access to the property.
- (4) APARTMENT. A building (or portion thereof) consisting of separate living units designed for occupancy by three or more families living independently of each other.
- (5) AUTOMOBILE WRECKING YARD. Premises used for the commercial storage or sale of used automobile or truck parts or for the storage, dismantling or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts thereof, unless said activity takes place solely within an enclosed structure.
- (6) BED AND BREAKFAST. An establishment in a residential district that contains up to five (5) guest bedrooms, is owner or manager occupied, provides a morning meal, and limits the length of stay to fifteen (15) days. The facility shall be licensed in accordance with ORS Chapter 624.

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- (7) BOARDING HOUSE, LODGING, OR ROOMING HOUSE. A building where lodging with or without meals is provided for compensation, for over four (5) guests to a maximum of twelve (12) guests.
- (8) BUILDING. A structure or mobile home unit built for the support, shelter, or enclosure of persons, animals, chattels or property of any kind.
- (9) CHURCH. A building or edifice used primarily for religious worship.
- (10) CITY. City of Fossil.
- (11) CITY COUNCIL. Fossil City Council
- (12) COMMERCIAL AMUSEMENT. A use or structure containing a use which provides facilities for the amusement of its customers, such as a bowling alley, billiard parlor, or video arcade.
- (13) COMMUNITY OR NEIGHBORHOOD CENTER. A community or neighborhood center is a publicly owned gathering place for citizens and visitors to Fossil and may be either an enclosed structure or an outdoor activity center. Such facilities must be publicly owned and operated.
- (14) CONTIGUOUS LAND. Two or more parcels or units of land, including water, under a single ownership which are not separated by an intervening parcel of land under a separate ownership (including limited access rights-of-way) which would deny access between the two parcels under single ownership.
- (15) DUPLEX. A building containing two dwelling units. Each dwelling unit is designed for occupancy by a single family.
- (16) DWELLING, SINGLE-FAMILY. Any building designed or used exclusively for occupancy by one family and containing one dwelling unit, including manufactured homes meeting the requirements of Section 4.8.
- (17) FAMILY. An individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit. Family shall include two or more persons with a handicap as defined in the Fair Housing Amendments Act of 1988, 42 USC § 3601 and following, living as a single housekeeping unit.
- (18) FOURPLEX. A building containing four dwelling units. Each dwelling unit is designed for occupancy by a single family.
- (19) HELIPORT. Defined as an area of land or water or structural surface which is used or intended for use for the landing and take-off of helicopters and any appurtenant areas which are used or intended for use for heliport buildings or other heliport facilities in accord with Section 4.10 of this ordinance.

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- (20)HOME OCCUPATION. The lawful occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling, provided:
- (A) There is no more than one additional person employed other than the resident of the dwelling; and
  - (B) The occupation is carried on in such a manner as not to impart the outward appearance of a business in an ordinary meaning of the term, or cause or lead to unreasonable increase of the flow of traffic in the neighborhood or production of noise or other forms of environmental pollution.
- (21)INDUSTRIAL. The making of commodities by manufacturing, assembling, fabrication, or compounding by manual labor or machinery. The term includes physical or chemical processes or combinations thereof;
- (A) Light Industrial—is defined as those activities listed above which occur totally within an enclosed structure. There is no odor, vibration, dust, or noise discernible to the human sensory perception beyond the exterior walls of the structure.
  - (B) Heavy Industrial—is defined as those activities listed above which can occur outside an enclosed structure. The uses include outside storage, loading and unloading, stockpiling, etc. for which there is no odor, vibration, dust, or noise discernible to the human sensory perception beyond the property line of the site.
- (22)LOT. A parcel or tract of land.
- (23)LOT AREA. The total area of the lot measured in the horizontal plane within the lot boundary lines.
- (24)LOT DEPTH. The average horizontal distance between the front lot line and the rear lot line.
- (25)LOT LINE, FRONT. The line on the lot facing the street from which the access to the lot is commonly made.
- (26)LOT LINE, REAR. A property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot or parcel, a line 10 feet in length within the lot or parcel parallel to and at a maximum distance from the front lot line. In the above instance, and if the front lot line is curved and a determination of the parallel relationship to the front lot line is being made, a straight line connecting the two end points of the front lot line shall be used. In the case of a corner lot or parcel, either interior lot line may be the rear lot line, regardless of the placement of the front door.
- (27)LOT WIDTH. The average horizontal distance between the side lot lines ordinarily measured parallel to the front lot line.

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## (28) MANUFACTURED DWELLING.

- (A) Residential Trailer—a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962.
- (B) Mobile Home—a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon Mobile Home law in effect at the time of construction.
- (C) Manufactured Home—A dwelling constructed to U.S. Department of Housing and Urban Development (HUD) standards since June 15, 1976, but not to State Building Code standards.

1. For any purpose other than that set forth in subparagraph 2 of this paragraph, "manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction; or
2. For purposes of implementing any contract pertaining to manufactured homes between the department and the federal government, "manufactured home" has the meaning given the term in the contract.
3. "Manufactured dwelling" does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

(29) MOBILE HOME PARK. Any privately owned place where four or more mobile homes used for human occupancy are parked within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is the rental of spaces.

(30) MULTIPLE FAMILY DWELLING. Dwellings designed or intended for the residence of three or more families.

(31) NON-CONFORMING STRUCTURE OR USE. A lawfully existing structure for use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

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- (32)OPEN SPACE. Generally, open space refers to lands which are under public ownership and serves a variety of public uses including parks, schools, municipal buildings, and other governmental facilities. The term open space in the context of a Planned Unit Development means lands which are under common private ownership and used for the benefit of the general ownership in a Planned Unit Development. Open space lands in private ownership, if in conjunction with a Planned Unit Development, are generally dedicated to recreational activities such as golf courses, hiking trails, and other outdoor recreation activities.
- (33)OWNER. A person, his authorized agent or representative having legal authority to use, transfer or lease land.
- (34)PARKING PLACE. A rectangular area not less than 20 feet long and 10 feet wide, together with maneuvering and access space for an automobile, equipment or other vehicle to park within the rectangle without the necessity of maneuvering other parked vehicles.
- (35)PERSON. A natural person, firm, partnership, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.
- (36)PLANNING COMMISSION. City of Fossil Planning Commission.
- (37)PLOT PLAN. A drawing indicating the location of existing and proposed structures on a lot or parcel, together with other site information as required.
- (38)PRIVATE ROAD. A private road under the jurisdiction of a private body that provides the principal means of access to an abutting property.
- (39)PUBLIC ROAD. A road under the jurisdiction of a public body that provides the principal means of access to an abutting property.
- (40)RECREATIONAL VEHICLE. A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a gross floor space of less than 400 square feet. The unit shall be identified as a recreational vehicle by the manufacturer.
- (41)RECREATIONAL VEHICLE PARK. Any area designed to establish, operate, manage, or maintain the same for picnicking or overnight recreational vehicle or tent camping by the general public. This includes areas open to use free of charge or through a payment of a tax or fee or by virtue of rental, lease, license, membership, association, or common ownership. This further includes but is not limited to those areas divided into two or more lots, parcels, units, or other interests for the purposes of such use. Such recreational vehicle parks as defined are not intended for residential occupancy. The maximum length of stay is limited to 180 consecutive days. The facility shall be licensed in accordance with ORS Chapter 446.

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- (42)RESIDENTIAL CARE FACILITY. A residential care, residential training, or residential treatment facility licensed or registered by or under the authority of the State of Oregon, as defined in ORS 443.400 under ORS 443.400 to ORS 443.460, or licensed by the State of Oregon under ORS 418.205 to ORS 418.327 which provides residential care alone or in conjunction with treatment or training, or the combination thereof, for six to fifteen individuals who need not be related. Staff person required to meet the licensing requirement shall not be counted in the number of facility residences and need not be related to each other or to any resident of the residential facility.
- (43)RESIDENTIAL CARE HOME. A residential treatment or training or adult foster home licensed by or under the authority of the State of Oregon as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to ORS 443.500, or an adult foster home licensed under ORS 443.705 to 443.825, which provides residential care alone or in conjunction with treatment or training, or a combination thereof, of five or fewer individuals who need not be related. Staff persons required to meet licensing requirement shall not be counted in the number of facility residents, and need not be related to each other or any residents of the residential home.
- (44)RESIDENTIAL USE. A structure or use designed or used for occupancy as a human dwelling or lodging place, such as single family dwelling, duplex, apartment, boarding, lodging or rooming house, mobile home or mobile home park, or labor camp.
- (45)RIGHT-OF-WAY. Land reserved, used, or to be used for a highway, street, alley, walkway, drainage facility, or other public purpose.
- (46)SETBACK. An area established for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained.
- (47)SIGN. An outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other thing that is used, designed or intended for advertising purposes or to inform or attract the attention of the public. The term includes the sign supporting structure, display surface and all other component parts of the sign. When dimensions of the sign are specified, the term includes the panels and frames, and the term includes both sides of the sign of specified dimension or area, but the term shall not include a sign as reasonably necessary or required by any branch or agency of the government pursuant to any public law or regulation.
- (48)SINGLE-FAMILY DWELLING. See Dwelling; Single-family.
- (49)STREET. The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic, and includes the terms road, highway, lane, place, avenue, alley or other similar designation which is commonly open to use by the public.

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- (50)STRUCTURE. Something which is constructed or built having a fixed base on or fixed connection to the ground or other structure.
- (51)TRACT OR AREA. The area within a measurable boundary of land or contiguous parcels of land.
- (52)TRIPLEX. A building containing three dwelling units. Each dwelling unit is designed for occupancy by a single family.
- (53)USE. The purpose for which land or building is designed, arranged or intended, or for which it is occupied or maintained.
- (54)YARD. An open space on a lot which is unobstructed except as otherwise provided in this ordinance, and includes driveways.
- (55)YARD, FRONT. A yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition abutting on a street other than an alley shall be considered a front yard.
- (56)YARD, REAR. Yard between the side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building.
- (57)YARD, SIDE. The yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.

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## Article 2 Basic Provisions

### SECTION 2.1 - COMPLIANCE WITH ORDINANCE PROVISIONS.

- (1) The land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this ordinance shall permit.
- (2) A building permit is required for all structures containing more than 120 square feet. In order to obtain the City approval of a building permit for a single-family or duplex dwelling unit and/or accessory structures, a plot plan shall be prepared and presented, along with the building permit application, to the City Recorder. The plot plan shall include the lot dimensions; proposed and existing structures, including dimensions and height of building; proposed and existing setbacks from all property lines; driveway locations and off-street parking area; water and sewer locations; and sidewalk locations. All other proposed uses are required to prepare and submit a site plan. Sample plot plans/site plans are available at City Hall.

SECTION 2.2 - ESTABLISHMENT OF LAND USE ZONE. This ordinance hereby establishes the following land use zones for the City.

<b>ZONE</b>	<b>ABBREVIATED DESIGNATIONS</b>
Residential 10,000 square feet minimum lot area	R-1
Residential 5,000 square feet minimum lot area	R-2
Open Space—Public Facilities	OS
Commercial	C-1
Industrial	M-1

SECTION 2.3 - LOCATION OF ZONES. The boundaries of the zones listed in this ordinance are indicated on the Fossil Zoning Map, which is attached to this ordinance.

SECTION 2.4 - ZONING MAP. The Zoning Map of the City of Fossil is enclosed in this ordinance as Appendix I and incorporated herein. Zoning Map Amendments shall be dated with the effective date of the ordinance that adopts the map amendment and filed in the office of the City Recorder.

SECTION 2.5 - ZONING BOUNDARIES. Unless otherwise specified, zone boundaries are property lines, lot lines, or city limits lines.



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## Article 3 Land Use Zones

### SECTION 3.1 - RESIDENTIAL ZONE "R-1".

USES. Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the "R-1" Residential Zone shall comply with the following regulations:

(1) PERMITTED USES:

- (A) Single-family dwellings.
- (B) Public parks, public recreation areas and community or neighborhood centers.
- (C) Accessory uses and buildings customarily incidental to the above uses. Detached accessory buildings shall not be located within the required setback areas or less than 10 feet from the main building. Accessory uses are those which are clearly incidental and subordinate to the primary use of the main building.
- (D) Name plates and signs. One non-illuminated name plate not to exceed 1-1/2 square feet in area, placed flat against the building, for each dwelling containing a home occupation. One temporary non-illuminated sign not to exceed eight square feet in area appertaining to the lease, rental, or sale of a building or premises upon which it is located. One bulletin board not to exceed 12 square feet in area for each church, public library, neighborhood or community center.
- (E) Residential Care homes.

(2) CONDITIONAL USES. Permitted with approval of the Planning Commission in accordance with Section 5.1.

- (A) Churches
- (B) Mobile home parks
- (C) Public schools and libraries
- (D) Home occupation
- (E) Lodge for civic or fraternal organization carrying on no commercial activity
- (F) Duplexes, two-unit dwellings.

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- (G) Necessary public utilities and public services, county service buildings, with safeguards against harm to adjacent or abutting residential property as required by the Planning Commission.
- (H) Bed and Breakfast facilities meeting the provisions of Section 4.8
- (3) HEIGHT. Buildings, structures, or portions thereof shall not be erected to exceed a height of 2-1/2 stories or 35 feet.
- (4) AREA.
  - (A) Front Yard. There shall be a front yard of not less than 20 feet in depth.
  - (B) Side Yard. On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than 5 feet. On corner lots the interior side yards shall have a width of not less than 5 feet but the side yard on the street side of such corner lot shall not be less than 10 feet in width.
  - (C) Rear Yard. There shall be a rear yard of not less than 5 feet in depth.
  - (D) Lot Area. Every lot shall have a minimum average width of not less than 70 feet and an area of not less than 10,000 square feet for each single-family dwelling.  
  
Duplexes 10,000 square feet
- (5) PARKING REGULATIONS.
  - (A) Dwellings. Two parking spaces shall be provided on the lot for each dwelling unit.
  - (B) Uses other than Dwellings. Churches, lodges for civic and fraternal organizations. One parking space shall be provided for each 4 seats in the main assembly room, or one parking space for each 30 square feet of floor space within the main assembly room.
- (6) SANITATION REGULATIONS. Before any dwelling is occupied, it must be connected to the city sewer system at such time as the city sewer system becomes available to the property on which the dwelling is located.
- (7) WATER SYSTEM REGULATIONS. Before any dwelling is occupied, it must be connected to the city water system at such time as the city water system becomes available to the property on which the dwelling is located.

## SECTION 3.2 - RESIDENTIAL ZONE "R-2".

USES. Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the "R-2" Residential Zone shall comply with the following regulations.

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## (1) PERMITTED USES.

- (A) Single-family dwellings
- (B) Public parks, public recreation areas and community or neighborhood centers
- (C) Accessory uses and buildings customarily incidental to the above uses. Detached accessory buildings shall not be located within the required setback areas or less than 10 feet from the main building. Accessory uses are those which are clearly incidental and subordinate to the primary use of the main building.
- (D) Name plates and signs. One non-illuminated name plate, not to exceed 1-1/2 square feet in area, placed flat against the building, for each dwelling containing a home occupation. One temporary non-illuminated sign not to exceed 8 square feet in area appertaining to the lease, rental, or sale of a building or premises upon which it is located. One bulletin board, not to exceed 12 square feet in area, for each church, public library, or neighborhood or community center.
- (E) Residential care homes.

## (2) CONDITIONAL USES. Permitted with approval of the Planning Commission in accordance with Section 5.1.

- (A) Churches
- (B) Public schools and libraries
- (C) Lodge for civic or fraternal organization carrying on no commercial activity
- (D) Home occupation
- (E) Duplexes, two unit dwellings, triplexes, fourplexes, and apartments
- (F) Necessary public utilities and public services with safeguards against noncompatibility to adjacent or abutting residential property as required by the Planning Commission.
- (G) Mobile homes parks
- (H) Bed and Breakfast facilities meeting the provisions of Section 4.8
- (I) Boarding house
- (J) Residential Care facilities

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(3) HEIGHT. Buildings, structures, or portions thereof shall not be erected to exceed a height of 2-1/2 stories or 35 feet.

(4) AREA.

(A) Front Yard. There shall be a front yard of not less than 20 feet in depth.

(B) Side Yard. On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than 5 feet. On corner lots the interior side yards shall have a width of not less than 5 feet but the side yard on the street side of such corner lot shall not be less than 10 feet in width.

(C) Rear Yard. There shall be a rear yard of not less than 5 feet in depth.

(D) Lot Area. Every lot shall have a minimum average width of not less than 40 feet and an area of not less than 5,000 square feet.

Duplexes 10,000 square feet

Triplexes 12,000 square feet

Fourplexes 16,000 square feet

(5) PARKING REGULATIONS.

(A) Dwellings. Two parking spaces shall be provided on the lot for each dwelling unit.

(B) Uses other than Dwellings. Churches, lodges for civic and fraternal organizations. One parking space shall be provided for each 4 seats in the main assembly room, or one parking space for each 30 square feet of floor space within the main assembly room.

(6) SANITATION REGULATIONS. Before any dwelling or structure is occupied, it must be connected to the city sewer system at such time as the city sewer system becomes available to that property on which the dwelling is located.

(7) WATER SYSTEM REGULATIONS. Before any dwelling or structure is occupied, it must be connected to the city water system at such time as the city water system becomes available to that property on which the dwelling is located.

## SECTION 3.3 - OPEN SPACE "OS".

USES. Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the "OS" Open Space zone shall comply with the following regulations.

(1) PERMITTED USES. With Site Plan Review.

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- (A) Parks and recreation areas
- (B) Public buildings and structures

(2) **CONDITIONAL USES - PUBLIC OR NON-PROFIT ONLY.**

- (A) Community centers, including housing for senior citizens
- (B) Public service utilities such as power substation, wastewater lift station. Generally unmanned public service facilities.

SECTION 3.4 - COMMERCIAL ZONE "C-1".

USES. Buildings and structures hereafter erected, structurally altered, enlarged, or moved or land hereafter used in the "C-1" Commercial Zone shall comply with the following regulations.

(1) **PERMITTED USES. With Site Plan Review.**

- (A) Retail trade establishments in which the operation takes place solely within an enclosed building
- (B) Business, governmental or professional offices
- (C) Financial institution
- (D) Personal and business service such as barber shop, tailoring shop, printing shop, laundry or dry cleaning establishment, and electrical repair shops
- (E) Public parks, public recreation areas and community centers
- (F) Service commercial establishments such as hotel, motel, gasoline service station, or restaurant

(2) **CONDITIONAL USES. Permitted with approval of the Planning Commission in accordance with Article 5 of this ordinance.**

- (A) Churches
- (B) Agricultural support services including produce storage facilities
- (C) Commercial amusement
- (D) Single-family dwellings, duplexes, and apartments on second floor of structure above existing commercial uses on ground floor
- (E) Recreational vehicle park

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- (F) Light industrial uses provided that all activities and operations except off-street parking and loading take place wholly within an enclosed building and that it is not deemed to be incompatible with surrounding uses because of noise, odor, sight or other kinds of environmental pollution.
- (G) Lodge for civic or fraternal organization
- (3) HEIGHT. Buildings, Structures or portions thereto shall not be erected to exceed a height of 2-1/2 stories or 35 feet, whichever is less.
- (4) SETBACK REQUIREMENTS. In the Commercial zone, setbacks shall be as follows.
  - (A) No front yard setback is required.
  - (B) No buildings shall be constructed or located closer than 5 feet from the rear lot line.
- (5) PARKING REGULATIONS.
  - (A) Residential Off-street Parking. For residential uses, two parking spaces for each dwelling unit.
  - (B) Commercial Off-street Parking. A minimum of two car spaces shall be provided for each 1,500 square feet or less of the ground floor area of the building, plus two car spaces for each 1,500 square feet or less of the floor area of each additional floor, excluding the basement. This requirement does not apply for motels, which must have at least one off-street parking space per each rentable unit. The parking area above required shall be contiguous to the commercial property it serves and this provision shall be interpreted or applied so as to result in sufficient off-street parking for all employees of the business.
  - (C) Parking Area Approval. Land used for parking areas in this zone shall be developed in accordance with a plan approved in writing by the Planning Commission. The area must be surfaced with asphaltic concrete, or other type of surfacing approved by the Planning Commission and all parking spaces shall be individually marked.

## SECTION 3.5 - INDUSTRIAL "M-1".

PURPOSE. The purpose of the Industrial Zone is to provide land zoned for commercial uses that normally require large lot areas for display of merchandise. Such sites would not be available in the downtown core area of the City. Further, the Industrial Zone is intended to provide land for the manufacturing or fabrication of products for export to other markets.

- (1) PERMITTED USES. Subject to Site Plan Review.

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- (A) Light and Heavy industrial uses as defined, which take place wholly within an enclosed building.
- (B) Automobile sales yard
- (C) Recreational vehicle sales yard
- (D) Utility trailer sales yard
- (E) Accessory uses providing services to the on-site commercial use, such as automotive detail shop or trailer repair shop.
- (F) Lumber sales yard
- (G) Agricultural sales yard including a nursery

## (2) CONDITIONAL USES.

- (A) Light and heavy industrial uses which take place outside an enclosed building. Any outside storage must be screened from view.
- (B) Ancillary commercial uses that serve primarily the adjoining industrial park or existing commercial facilities, including other light industrial and construction activities.
- (C) Public parks and recreation areas
- (D) Public buildings and structures
- (E) Other commercial uses that normally require large lot areas for display of merchandise

## (3) PROHIBITED USES.

- (A) Outside storage of used construction or farm equipment, scrap materials, or inoperable vehicles.
- (B) Aggregate resource extraction.
- (C) Storefront activities such as gift shops, restaurants, grocery stores, and travelers' accommodations.

(4) HEIGHT. Buildings, structures, or portions thereof shall not be erected to exceed a height of 2-1/2 stories or 35 feet, whichever is less.

(5) SETBACK REQUIREMENTS. In the Industrial zone, setbacks shall be as follows.

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- (A) Front Yard. No specific front yard setback from structures is required, however, it is intended that the “development” provide a landscaping buffer between the developed portion of the lot and the highway right-of-way.
- (B) No buildings shall be constructed or located closer than 5 feet from the rear lot line.
- (C) Interior side yard setback shall be 5 feet.
- (D) No building shall be closer to a lot nor residential or agricultural zone than a distance equal to the height of the building or 50 feet, whichever is greater.

### (6) PARKING REGULATIONS.

- (A) Off-street Parking. A minimum of two (2) car spaces shall be provided for each 1,500 square feet of the ground floor area of the building.

- (7) OUTSIDE LIGHTING. Outside lighting shall be designed and constructed to prohibit light glare to shine on neighboring residential properties and designed and constructed to prohibit glare to shine on the State Highway.

### **SECTION 3.6 – FARM ZONE “F”**

- (1) PERMITTED USES. In an “F” zone, the following uses and their accessory uses are permitted outright.

- (A) Single-family dwelling
- (B) Mobile homes
- (C) Farming and livestock grazing but not including intensive livestock or poultry operations such as a commercial feed lot or poultry plant.

- (2) CONDITIONAL USES. In an “F” zone the following uses and their accessory uses are permitted when authorized in accordance with Article 5 et.seq.

- (A) Public use

- (3) DIMENSIONAL STANDARDS. In an “F” zone the dimensional standards of an “R” zone shall apply except the lot area shall be a minimum of ten (10) acres.



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## Article 4 Supplementary Provisions

SECTION 4.1 - MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS. No lot area, yard or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance, and no lot area, yard or other open space which is required by this ordinance for one use shall be used as the required lot area, yard or other open space for another use.

SECTION 4.2 - ACCESS. Every lot shall abut a street, other than an alley, for at least 25 feet. Before the City approves a building permit, zone change, conditional use, or variance it shall be demonstrated that the property has adequate access to a city street, county road, or state highway. If a county or state permit is required, the permit shall be obtained by the property owner prior to the final City approval. If dedication of a street is necessary to provide adequate access, the street shall be designed and constructed to the requirements established by the City of Fossil Subdivision Ordinance. A building shall not be situated so that an existing street cannot be extended.

SECTION 4.3 – DWELLING UNITS PER LOT. Within the residential and farm zones, only one dwelling unit per lot or parcel shall be allowed unless otherwise specified in the zone requirements.

SECTION 4.4 - GENERAL PROVISIONS REGARDING ACCESSORY USES. An accessory use shall comply with the requirements for a principal use, except as this ordinance specifically allows to the contrary.

SECTION 4.5 - FENCES. A fence or hedge within a front yard or a street side yard shall not exceed an elevation six feet above the street curb elevation.

SECTION 4.6 - HISTORIC STRUCTURE PRESERVATION. Upon receiving an application for demolition or major exterior alteration involving an historic area, site, structure or object, as designated by the Comprehensive Plan, the Planning Commission in a public meeting shall review the application to determine its conformance with the Historic Preservation factors of this ordinance.

Demolition Procedure - If it is determined the Land Use action will result in the demolition or extensive exterior modification of any historical building, the Planning Commission shall review the application taking into account the following:

- (1) State of repair of the building.
- (2) The reasonableness of the cost of restoration or repair.
- (3) The purpose of preserving such designated historical building and sites.
- (4) The character of the neighborhood.
- (5) All other factors the Planning Commission feels are appropriate.

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Following the Planning Commission review, the Planning Commission may approve or deny the permit for Land Use action or delay action for sixty (60) days to allow cognizant agencies to explore alternatives. If no suitable alternatives are available, the permit may be issued. The Planning Commission, upon finding significant progress is being made toward preserving the structure, may extend the delay for an additional thirty (30) days.

Major Exterior Alteration Procedure - Exterior alterations shall be in accordance with the following:

- (1) Upon receipt of an application for a major exterior alteration of a historic structure listed in the Comprehensive Plan, the Planning Commission, in a public meeting, shall review the proposed alteration to determine if the resource's historical significance will be altered. This review shall be based on the criteria for determining historic significance contained in the Comprehensive Plan.
- (2) Major exterior alterations as defined by this section include any change or alteration of a facade, texture, design, materials, fixtures, or other treatment.
- (3) All applications for major exterior alteration shall be accomplished by plans and specifications of the proposed alteration. The Planning Commission may request additional sketches and other information deemed necessary to make an informed decision.
- (4) In order to approve the application, the Planning Commission shall find the alteration harmonious and compatible with the resource with respect to style, scale, texture, and construction materials and/or Find the alteration will enhance the historical value of the resource. Conditions may be attached to the approval if the Planning Commission deems it necessary to achieve the above objectives. The Planning Commission shall disapprove the request if the proposal would reduce the resource's value or historic significance.

Conditions attached to a permit for major exterior alteration of a historic structure shall be limited to permit requirements addressing architectural design, surface texture, materials, fixtures, or other facade or surface treatments which are deemed inconsistent with the integrity of the historic values being preserved.

The Planning Commission shall not make any recommendation or requirement except for the purpose of preventing developments out of character with the historic aspects of the resource.

- (5) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, or the construction, reconstruction, or alteration of such feature which the building inspectors certify is required by the public safety because of unsafe conditions.

SECTION 4.7 - MOBILE HOMES AND RESIDENTIAL TRAILERS PLACED IN MOBILE HOME PARKS. When a mobile home or residential trailer is installed in a Mobile Home Park, it shall comply with the state

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installation standards. The mobile home or residential trailer shall comply with the following additional provisions.

- (1) The mobile home or residential trailer shall have an Oregon insignia. No reconstruction or equipment installation shall have been made to the mobile home unless it has been state approved as evidenced by an appropriate insignia. Before installation, the mobile home or residential trailer shall be inspected by the Building Official and installation shall be approved only if the Building Official determines the mobile home or residential trailer substantially meets the state standards for mobile home construction, and notwithstanding any deterioration which may have occurred.
- (2) The mobile home or residential trailer shall be tied down with devices to meet state standards.
- (3) The mobile home or residential trailer shall have a water closet, lavatory, and bathtub or shower.
- (4) The mobile home or residential trailer shall have a kitchen area or room containing a sink.
- (5) The mobile home or residential trailer plumbing shall be connected to a potable water supply and approved sewage disposal system.
- (6) The mobile home or residential trailer shall have continuous fireproof skirting.
- (7) Wheels of the mobile home or residential trailer shall be removed when the unit is installed.
- (8) Except for a structure which conforms to the state definition of a mobile home accessory structure, no extension shall be attached to the mobile home or residential trailer. Accessory buildings shall be separated from the mobile home by not less than 5 feet.
- (9) The mobile home or residential trailer shall contain at least 500 square feet of space as determined by measurement of the exterior dimensions of the unit, exclusive of any trailer hitch device. The area of a mobile home accessory structure shall not be included.

**SECTION 4.8 - MANUFACTURED HOME SITING STANDARDS.** Manufactured homes meeting the following criteria are allowed on individual lots in specified residential zones.

- (1) Only those manufactured homes used as permanent residences, and
  - (A) The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.
  - (B) The manufactured home shall have a foundation of sufficient strength to support the loads imposed by the manufactured home as specified by the manufacturer's installation instructions. Manufactured home placements shall be reviewed and

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approved by the City's designated building official. In the absence of the specific manufactured home installation instructions, installation of the manufactured home shall follow the installation requirements outlined in Oregon Administrative Rules, Chapter 918. Skirting of a noncorrosive, noncombustible material which matches the exterior color of the unit shall be provided.

- (C) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
- (D) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

SECTION 4.9 - BED AND BREAKFAST FACILITIES DEVELOPMENT STANDARDS. A bed and breakfast facility approved as a conditional use in the residential zones of the City shall have the following approval standards.

- (1) The structure shall retain the characteristics of a single-family dwelling.
- (2) The number of guestrooms shall be limited to five (5) and the number of guests shall be limited to ten (10). The facility shall be licensed in accordance with ORS Chapter 624.
- (3) In addition to the required off-street parking for each residential use, one (1) off-street parking space for each bed and breakfast guest shall be provided.
- (4) Signs shall be limited to one non-illuminated sign, not exceeding four (4) square feet. No off-premises signs are permitted.
- (5) Submission of an acceptable site plan that meets off-street parking requirements and provides landscaping appropriate to a residential neighborhood.

SECTION 4.10 - EARTH MOVEMENT AND REMOVAL. A written permit approved by the Planning Commission shall be required to remove 50 cubic yards or more of earth material from any individual property within a calendar year.

SECTION 4.11 - HELIPORT STANDARDS.

- (1) PURPOSE. The purpose of these standards is to provide for sites reserved for the landing and takeoff of helicopters, loading and unloading of passengers and materials. Heliports are conditionally allowed as necessary public facilities.

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(2) STANDARDS. The Planning Commission may require an annual review of a conditional use permit for a heliport if it determines that the area could develop in the future with other uses. In addition to the information required for a conditional use permit, the applicant is required to submit to the Planning Commission prior to approval:

(A) A State of Oregon airport license issued by the Oregon Aeronautics Section.

(B) A map showing the flight pattern for landings and takeoffs.

## SECTION 4.12 - SIGNS.

(1) SIGN REQUIREMENTS. A sign is permitted only as an accessory use to the use of the property on which the sign is located.

(2) RESIDENTIAL ZONE REQUIREMENTS. In a residential zone the following regulations shall apply.

(A) No sign shall be illuminated in any manner.

(B) One name plate or home occupation sign shall be allowed and shall not exceed four (4) square feet in area.

(3) COMMERCIAL ZONE REQUIREMENTS. In a commercial zone the following regulations shall apply.

(A) Signs shall be set back at least ten (10) feet from any residential zone.

(B) Moving or flashing signs are prohibited.

(C) Total area of all signs shall not exceed one (1) square foot per 100 square feet of the building's ground floor area except that a minimum of eighteen (18) square feet shall be allowed.

(D) No sign shall project above the roof edge of the building containing the business which the sign identifies.

(E) Signs visible from residential properties shall be shielded or directed so as not to constitute a nuisance to residential property owners.

(F) Signs shall not interfere with, confuse, or mislead a vehicle operator.

(4) INDUSTRIAL ZONE REQUIREMENTS. In an industrial zone the following regulations shall apply.

(A) Signs shall be set back at least ten (10) feet from any residential zone.

(B) Moving or flashing signs are prohibited.

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(C) Signs visible from residential properties shall be shielded or directed so as not to constitute a nuisance to residential property owners.

(D) Signs shall not interfere with, confuse, or mislead a vehicle operator.

## (5) TEMPORARY SIGNS.

(A) One sign shall be allowed per lot advertising the property for sale, lease, or rent and the sign shall not exceed six (6) square feet in area. A "For Sale" sign shall not be allowed to remain on the property after the property is sold.

(B) One sign shall be allowed per subdivision advertising lots or homes for sale. Such sign shall not exceed fifty (50) square feet in area and shall be set back at least twenty (20) feet from the nearest street.

(C) One advertising sign not to exceed eight (8) square feet in area nor advertising for a period exceeding two (2) weeks an event such as a picnic, bazaar, or banquet of a church, service club, fraternal organization, or similar group shall be allowed.

(D) One political sign per lot shall be allowed not to exceed two (2) square feet in area nor advertising a candidate or issue for a period exceeding thirty (30) days prior to the date of an election.

(6) PUBLIC OR SEMI-PUBLIC SIGN. On property in public or semi-public use, an identification sign facing each abutting street not to exceed six (6) square feet in area and a bulletin board not over ten (10) square feet in area shall be allowed.

SECTION 4.13 – CLEAR VISION AREAS. A Clear Vision Area shall be maintained at the corners of all property at the intersections of two streets or a street and a railroad. Such corner lots or parcels shall be provided with and maintain a vision clearance area. A vision clearance area is defined as a triangular area formed at a corner lot or parcel by the intersection of dedicated public rights-of-way lines and a straight line joining said lines through points twelve (12) feet back from their intersection. The vision clearance area shall provide an area of unobstructed vision from three and one-half (3-1/2) feet to eight (8) feet above the top of the curb. Natural topographic features, utility poles, and tree trunks are excluded from this requirement.

## SECTION 4.14 – HAZARD AREAS.

(1) If a structure is proposed for an area subject to slopes of greater than twelve (12) percent, the developer shall show he is aware of the steep slope condition and has incorporated necessary safeguards into his site and building plans before the City signs the building permit.

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- (2) If a structure is proposed for an area subject to flooding, as designated on the FEMA Flood Hazard Boundary Map, adopted as part of this ordinance, the standards and requirements of the City's Flood Plain Ordinance shall apply.

## SECTION 4.15 – SITE PLAN APPROVAL.

- (1) PURPOSE. The purpose of the site plan approval process is to provide the City with a detailed drawing or drawings of a proposed land use. A site plan shall be provided for all proposed uses other than single-family or duplex residential uses and/or accessory structures. Where the proposed use is an outright permitted use within the zone in which the proposal is located, a site plan may be approved by the City Staff. However, at the discretion of the City Staff, such site plans may be referred to the Planning Commission in either an administrative or quasi-judicial process such as a conditional use proceeding. Site plans for proposed conditional uses will become an integral part of the record and provide the basis for City staff reports, and the basis of final review and approval by the Planning Commission or governing body.

- (2) A site plan shall be drawn to scale and indicate the following:

- (A) Dimensions and orientation of the parcel.
- (B) Locations and heights of buildings and structures, both existing and proposed (scaled elevation drawings or photographs may be required).
- (C) Location and layout of parking and loading facilities.
- (D) Location of points of entry and exit for pedestrians, motor vehicles and internal circulation patterns.
- (E) Location of existing and proposed walls and fences and indication of their height and materials.
- (F) Proposed location and size of exterior lighting.
- (G) Proposed location and size of exterior signs.
- (H) Site specific landscape plan including percentage of total net area.
- (I) Location and species of trees greater than 6 inches in diameter when measured four feet above the ground and an indication of which trees to be removed.
- (J) Contours mapped at 2-foot intervals. (5-foot contours may be allowed on steep slopes).
- (K) Natural drainage.
- (L) Other significant natural features.

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- (M) Legal description of the lot.
- (N) Percentage of the lot covered by any and all proposed and remaining structures to include asphalt concrete and Portland Cement Concrete.
- (O) Locations and dimensions of all easements and nature of the easements.
- (P) Service areas for uses such as loading and delivery.
- (Q) Grading and drainage plan.
- (R) Other site elements which will assist in the evaluation of site development.
- (S) A statement of operations shall accompany the site plan. A brief narrative on the nature of the activity, including:
  - 1. Number of employees
  - 2. Method of import and export
  - 3. Hours of operation including peak times
  - 4. Plans for future expansion

(3) SITE PLAN REVIEW CRITERIA. The following criteria shall be used in evaluation proposals.

- (A) Natural Features. Where existing natural or topographic features are present, they shall be used to enhance the development; (i.e., the use of small streams in the landscaping design, rather than culvert and fill).
- (B) Trees. Existing trees shall be left standing except where necessary for building placement, sun exposure safety or other valid purpose. Vegetative buffers should be left along major streets or highways, or to separate adjacent uses.
- (C) Grading. The grading and contouring of the site shall take place and on-site surface drainage and on-site storage of surface water facilities are constructed when necessary, so there is no adverse effect on neighboring properties, public rights-of-way, or the public storm drainage system. Graded areas shall be replanted as soon as possible after construction to prevent erosion. A construction erosion control plan may be required.
- (D) Public Facilities. Adequate capacity of public facilities for water, sanitary sewers, storm drainage, fire protection, streets, and sidewalks shall be provided to the subject parcel. Development of on-site and off-site public facilities necessary to serve the proposed use shall be consistent with the Comprehensive Plan and any adopted public facilities



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plan(s). Underground utilities may be required. On-site detention or treatment of storm water may be required.

- (E) Traffic. The following traffic standards shall be applicable to all proposals. When evaluating traffic issues, consideration shall be given to the proposed usage (i.e., employees, customers, freight, service) and to the potential types of traffic (i.e., vehicles, pedestrians, bicycles).
1. On-site traffic circulation shall be designed according to accepted engineering guidelines to be safe and efficient.
  2. The access point(s) between the subject property and the public street shall be reasonably safe. Minimal factors to be considered in evaluating the proposed access points include the average speed of the traffic on the public street(s), the proposed usage of the access points, the distance between the existing and proposed access points, vision clearance, and the pre-existing location of the access point(s) on the subject property.
  3. Access to all state highways will require a permit from ODOT. Access spacing and location shall address the states Access Management policies. Frontage improvements, such as curb and sidewalk to ADA standards, may be required by ODOT as a condition to access.
  4. Traffic Impact Report – The applicant may be required to provide a traffic impact report prepared by an Oregon licensed traffic engineer. Every effort will be made to inform the applicant within 20 days of receiving a completed application whether a traffic impact report and/or a determination of the level of service will be required. Unforeseen circumstances could result in a delayed request for this information.
- (F) Storage. All outdoor storage areas and garbage collection areas shall be screened through the use of vegetative materials or appropriate fencing.
- (G) Equipment Storage. Design attention shall be given to the placement or storage of mechanical equipment so as to be screened from view and that an adequate sound buffer will be provided to meet at a minimum the requirements of the Municipal Code relative to noise.
- (H) The following criteria shall be applied to the maximum extent possible without causing significant adverse impacts on the operating efficiency of the proposed use:
1. Compatibility. The height, bulk and scale of buildings shall be compatible with the site and the buildings in the vicinity. Use of materials shall promote harmony with surrounding structures and sites.

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- 2.Design. Monotony design in single or multiple projects shall be avoided.  
Variety of detail, form and siding shall be used to provide visual interest.
- 3.Orientation. Buildings shall have their orientation toward the street rather than the parking area.
- 4.Parking. Parking areas shall be located behind the buildings or on one or both sides.

(4) COMPLIANCE. After site plan approval or approval of a change to a site plan as provided in this ordinance, it shall be unlawful for any person to cause or permit the proposed use in any manner except in complete and strict compliance with the approved site plan.

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## Article 5 Conditional Uses

### SECTION 5.1 - AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

- (1) Conditional uses listed in this ordinance may be permitted, enlarged, or otherwise altered upon authorization by the Planning Commission in accordance with the standards and conditions in this Article. In permitting a conditional use or the modification of a conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by the ordinance, any additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding property or the City as a whole.
  
- (2) STANDARDS FOR GRANTING CONDITIONAL USES.
  - (A) The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Ordinance and other applicable policies of the City.
  - (B) Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impact on the (a) livability, (b) value, and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
  - (C) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.
  - (D) The proposal will preserve assets of particular interest to the community.
  - (E) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes.
  
- (3) PLACING CONDITIONS ON A PERMIT. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the community as a whole. These conditions may include the following:
  - (A) Increasing the required lot size or yard dimension
  - (B) Limiting the height, size or location of buildings
  - (C) Controlling the location and number of vehicle access points
  - (D) Increasing the street width

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- (E) Increasing the number of required off-street parking spaces
  - (F) Limiting the number, size, location and lighting of signs
  - (G) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property
  - (H) Designating sites for open space.
  - (I) Requiring proper drainage and pest control
  - (J) Placing time limits on the use and requiring periodic reviews
- (4) PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.
- (A) Application for a Conditional Use. A property owner shall initiate a request for a conditional use or the modification of a conditional use by filing an application along with drawings or information necessary to an understanding of the proposed uses and its relationship to surrounding properties.
  - (B) Public Hearings on Conditional Use. Before the Planning Commission can act on a conditional use request, a public hearing must be held.
  - (C) Notification Action. Within five (5) days following the Planning Commission decision, the City Recorder shall provide the applicant with a written notice of the Planning Commission's action on the application.
  - (D) Time Limit on a Permit for Conditional Use. Authorization of a conditional use shall be void after 6 months, unless substantial construction has taken place. However, the Planning Commission may, at its discretion, extend authorization for an additional 6 months on request.
- (5) FINAL ACTION. Except as provided for under ORS 227.178, the City shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council, within 120 days from the date a complete application is submitted to the City. Within 30 days of receipt of an application, the City will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the 30-day period. The 120-day time period will commence on the date the application is deemed complete.
- (6) RESUBMITTAL. If a request is denied by the City staff or hearing body and no appeal is filed, or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six (6) months after the date of final denial. An application may be denied without prejudice and a waiver of the six-month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted,

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the hearing body, on its own motion, may consider new evidence and waive the six (6) month restriction.

(7) EXISTING LAND USES.

(A) Land uses which lawfully existed at the time of the adoption of this ordinance and which would be considered as conditional uses in this ordinance shall be considered as existing conditional uses.

(B) An expansion, enlargement, or change of use to another listed conditional use shall be required to be approved by the Planning Commission in accordance with this article.

(8) REVOCATION OF CONDITIONAL USE PERMIT.

(A) Any conditional use permit shall be subject to denial or revocation by the Planning Commission if the application includes or included any false information, or if the conditions of approval have not been complied with or are not being maintained.

(B) In order to consider revocation of a conditional use permit, the Planning Commission shall hold a public hearing as prescribed under Article 5 of this ordinance in order for the holder of a conditional use permit to show cause why the permit should not be revoked.

(C) If the Planning Commission finds that the conditions of approval have not been complied with or are not being maintained, a reasonable time shall be given for making corrections. If corrections are not made, revocation of the conditional use permit shall become effective ten (10) days after the time specified.

(D) Reapplication for a conditional use which has been revoked cannot be made within one (1) year after the date of the Planning Commission's action, except that the Planning Commission may allow a new application to be considered if new evidence or a change in circumstances warrants it.

## PLANNED UNIT DEVELOPMENT

(9) APPLICABILITY OF PLANNED UNIT DEVELOPMENT REGULATIONS. The requirements for a planned unit development set forth in this chapter are in addition to the conditional use procedures and standards of Article 5 of this ordinance.

(A) Purpose for Planned Unit Development Regulations. The planned unit development authorization serves to encourage developing as one project, tracts of land that are sufficiently large to allow a site design for a group of structures. Deviation from specific site development standards is allowable as long as the general purposes for the standards are achieved and the general provisions of the zoning regulations are observed. The planned approach is appropriate if it maintains compatibility with the

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surrounding area and creates an attractive, healthful, efficient and stable environment. It should either promote a harmonious variety or grouping of uses or utilize the economy of shared services and facilities. It is further the purpose of authorizing planned unit developments to take into account the following:

1. Advances in technology and design.
2. Recognition and resolution of problems created by increasing population density.
3. A comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development, in which the design of the overall unit permits increased freedom in the placement and uses of buildings and the location of open spaces, circulation facilities, off-street parking areas and other facilities.
4. The potential of sites characterized by special features of geography, topography, size or shape.

(B) Findings for Project Approval. The Planning Commission may approve a planned unit development if it finds that the planned unit development will satisfy standards of both Article 5 of this ordinance and this section and including the following:

1. The proposed planned unit development is an effective design consistent with the Comprehensive Plan.
2. The applicant has sufficient financial capability to assure completion of the planned unit development

(C) Dimensional and Bulk Standards. A tract of land to be developed as a planned unit development shall be of a configuration that is conducive to a planned unit development.

1. The minimum lot area, width and frontage requirements otherwise applying to individual building sites in the zone in which a planned unit development is proposed do not apply within a planned unit development. Minimum setbacks from the planned unit development exterior property lines as required by the zone will be maintained. The density standards as allowed by the applicable zone shall be maximum density allowed in the PUD except as noted.
2. Buildings, off-street parking and loading facilities, open space, landscaping and screening shall provide protection to properties outside the boundary lines of the development comparable to that otherwise required of development in the zone.

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3. The maximum building height shall, in no event, exceed those building heights prescribed in the zone in which the planned unit development is proposed.

(D) Common Open Space. Common open space is land that is left open without structures for use by all owners or tenants of the Planned Unit Development. Streets, public or private are not to be considered as common open space. At least 50% of the gross land area contained in the Planned Unit Development shall be designated as Common Open Space. Land shown on the final development plan as common open space shall be conveyed to an association of owners or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.

(E) Design Standards. Although the planned unit development concept is intended to provide flexibility of design, the following are the minimum design standards which will be allowed:

1. Private streets shall have a minimum improved width of twelve (12) feet for each lane of traffic. If on-street parking spaces are provided, they shall be improved to provide an additional eight (8) feet of street width for each side of the street that the parking is provided. Rolled curbs and gutters may be allowed.

2. Utilities shall be underground where practicable.

3. The overall density of the proposed Planned Unit Development may be increased by a factor of 33%, if the development includes some of the following improvements: approved walkways or bike paths, play areas and defined recreational activities and spaces or other amenities. The increased density must be approved by the Planning Commission after evaluation of the proposed improvements.

(F) Accessory Uses in a Planned Unit Development. In addition to the accessory uses typical of the primary uses authorized, accessory uses approved as a part of a planned unit development may include the following uses:

1. Golf course

2. Private park, lake or waterway

3. Recreation area

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4. Recreation building, clubhouse or social hall

5. Other accessory structures which are designed to serve primarily the residents of the planned unit development, and are compatible to the design of the planned unit development.

(G) Application Submission. An applicant shall include with the application for approval of a planned unit development a preliminary development plan as described in this section. The procedure for review and approval of a planned unit development is the same as contained in Section 5 of this ordinance.

(H) Preliminary Development Plan. A preliminary development plan shall be prepared and shall include the following information:

1. A map showing street systems, lot or partition lines and other divisions of land for management, use or allocation purposes.

2. Areas proposed to be conveyed, dedicated or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings and similar public and semi-public uses.

3. A plot plan for each building site and common open space area, showing the approximate location of buildings, structures and other improvements and indicating the open space around buildings and structures.

4. Elevation and perspective drawings of proposed structures.

5. A development schedule indicating:

(a) The approximate date when construction of the project can be expected to begin.

(b) The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin. Buildings shall conform to the current Uniform Building Code (UBC) as of date of issue of the building permit.

(c) The anticipated rate of development.

(d) The approximate dates when each stage in the development will be completed.

(e) The area, location and degree of development of common open space that will be provided at each stage.



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6. Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open space areas.

7. The following plans and diagrams:

- (a) An off-street parking and loading plan.
- (b) A circulation diagram indicating proposed movement of vehicles, goods and pedestrians within the planned unit development and to and from thoroughfares. Any special engineering features and traffic regulation devices shall be shown.
- (c) A landscaping and tree plan.

8. A written statement which is part of the preliminary development plan shall contain the following information.

- (a) A statement of the proposed financing.
- (b) A statement of the present ownership of all the land included within the planned unit development.
- (c) A general indication of the expected schedule of development.

(I) Approval of the Preliminary Development Plan. The approval of the preliminary development plan by the Planning Commission shall be binding on both the Planning Commission and the applicant. However, no construction shall commence on the property until approval of the final development plan is granted.

(J) Approval of the Final Development Plan.

1. The final development plan shall be submitted to the Planning Commission within six months of the date of approval of the preliminary development plan. The Planning Commission may extend for up to six months the period for filing of the final development plan. After review, the Planning Commission shall approve the final development plan if it finds the plan is in accord with the approved preliminary development plan.

2. A material deviation from the approved preliminary development plan shall require the preliminary development plan to be re-examined by the Planning Commission.

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3. Within thirty (30) days after approval of the final development plan, the applicant shall file and record the approved final development plan with the Wheeler County Clerk.

(K) Control of the Development After Completion. The final development plan shall continue to control the planned unit development after the project is completed and the following shall apply:

1. The building official shall issue a certificate of completion of the planned unit development and shall note the issuance on the Planning Commission copy of the recorded final development plan.
2. After the certificate of completion has been issued, no change shall be made in development contrary to the approved final development plan without approval of an amendment to the plan except as follows:
  - (a) Minor modifications of existing buildings or structures.
  - (b) A building or structure that is totally or substantially destroyed may be reconstructed.
  - (c) An amendment to a completed planned unit development may be approved if it is appropriate because of changes in conditions that have occurred since the final development plan was approved or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related use regulations. The procedure shall be as outlined in Section 5 of this Article.

# FOSSIL ZONING ORDINANCE

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## Article 6 Exceptions and Variances

### SECTION 6.1 - NONCONFORMING USES.

- (1) A nonconforming use or structure may be continued but may not be altered or expanded. The expansion of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance is not an enlargement or expansion of a nonconforming use. A nonconforming structure which conforms with respect to use may be altered or expanded if the alteration or expansion does not cause the structure to deviate further from the standards of this ordinance.
- (2) If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this ordinance.
- (3) If a nonconforming use is replaced by another use, the new use shall conform to this ordinance.
- (4) If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of its fair market value as indicated by the records of the county assessor, a future structure or use on the site shall conform to this ordinance.
- (5) Nothing contained in this ordinance shall require any change in the plans, construction, alteration or designated use of a structure for which a permit has been issued by the City and construction has commenced prior to the adoption of this ordinance provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.

SECTION 6.2 - GENERAL EXCEPTIONS TO YARD REQUIREMENTS. The following exceptions to yard requirements are authorized for a lot in any zone, except a corner lot. Any front yard need not exceed:

- (1) The average of the front yards on abutting lots which have buildings within 100 feet of the lot;  
or
- (2) The average of the front yard of a single abutting lot that has a building within 100 feet, and the required depth for that zone.

SECTION 6.3 - GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS. Vertical projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, firepoles and similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.

SECTION 6.4 - PROJECTIONS FROM BUILDINGS. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than 24 inches into a required yard setback area.

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SECTION 6.5 - AUTHORIZATION TO GRANT OR DENY VARIANCES. The Planning Commission may authorize a variance from the requirements of this ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this ordinance.

SECTION 6.6 - CIRCUMSTANCES FOR GRANTING A VARIANCE. A variance may be granted only in the event that all of the following circumstances exist:

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography or other circumstances over which the owners of property since enactment of this ordinance have had no control.
- (2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.
- (3) The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.
- (4) The variance requested is the minimum variance that would alleviate the hardship.

SECTION 6.7 - PROCEDURE FOR GRANTING A VARIANCE.

- (1) Application for a Variance. A property owner shall initiate a request for a variance by filing an application with the City Recorder.
- (2) Public Hearing on a Variance. Before the Planning Commission may act on a request for a variance, it shall hold a public hearing.
- (3) Notification of Decision. Within ten (10) days after a decision has been rendered by the Planning Commission with reference to a request for a variance, the City Recorder shall provide the applicant with the notice of the decision of the Planning Commission.
- (4) Time Limit for a Permit for a Variance. Authorization for a variance shall be void after six (6) months, unless substantial construction has taken place. However, the Planning Commission may, at its discretion, extend the authorization for an additional six (6) months on request.

# FOSSIL ZONING ORDINANCE

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## Article 7 Amendments

SECTION 7.1 - FORMS OF AMENDMENTS. There are two types of amendments to this ordinance:

- (1) Amendment to the text. (Legislative Revision)
- (2) Amendment to the Map. (Legislative Revision or Quasi-Judicial Change)

SECTION 7.2 - LEGISLATIVE REVISIONS.

- (1) Proposed amendments to this ordinance shall be deemed legislative revisions if:
  - (A) The proposed amendment involves the text of this ordinance, and/or
  - (B) The proposed amendment involves the map, when such an amendment would have widespread and significant impact beyond the immediate area of the proposed amendment.
- (2) Legislative revisions shall be initiated by:
  - (A) A majority vote of the City Council; or
  - (B) A majority vote of the Planning Commission; or
  - (C) A request by the City Attorney or City Planner.

SECTION 7.3 - QUASI-JUDICIAL REVISIONS.

- (1) A proposed amendment to this ordinance shall be deemed a quasi-judicial change if the proposed amendment involves the Zoning map and does not have widespread and significant impact beyond the immediate area of the proposed amendment.
- (2) Quasi-judicial changes may be initiated by:
  - (A) Property owners or contract purchaser or an authorized agent; or
  - (B) A majority vote of the City Council; or
  - (C) A majority vote of the Planning Commission; or
  - (D) A request by the City Attorney or City Planner.

# FOSSIL ZONING ORDINANCE

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- (3) In case of a controversy as to whether an amendment be deemed a legislative or quasi-judicial matter, city staff shall make the initial determination. The staff decision may be appealed to the Planning Commission.

SECTION 7.4 – HEARING REQUIREMENTS FOR LEGISLATIVE OR QUASI- JUDICIAL REVISIONS TO THE ZONING ORDINANCE. Public hearings, under the provisions of Section 8.5, shall be required for both legislative and quasi-judicial amendments to the Zoning Ordinance. A public hearing before the Planning Commission is mandatory. A public hearing before the City Council is optional. (See procedures in Section 7.6 below).

SECTION 7.5 – NOTICE REQUIREMENTS. For both legislative and quasi-judicial revisions to the Zoning Ordinance, a series of public notices are required. These notices are as follows:

- (1) POST-ACKNOWLEDGEMENT PLAN AMENDMENT NOTICE TO DLCD. The Department of Land Conservation and Development requires notice of the first evidentiary hearing on a proposed amendment to a jurisdiction’s zoning ordinance to be submitted to the Department on their forms at least forty-five (45) days in advance of the first hearing. Notice must be in the Salem office forty-five (45) days or earlier than the date of the proposed hearing before the Planning Commission.
- (2) NOTICES OF BOTH LEGISLATIVE AND QUASI-JUDICIAL HEARINGS. Notices of both legislative and quasi-judicial hearings must be published in the local newspaper following the requirements of Section 8.5 of this Ordinance.
- (3) LEGISLATIVE REVISIONS—BALLOT MEASURE 56. Ballot Measure 56, passed by general vote in the 1998 election, requires specific notices be mailed to all affected landowners in the instance of a legislative revision in which a rezoning will occur. These must be mailed not more than forty (40) nor less than twenty (20) days from the date of the first hearing.
- (4) QUASI-JUDICIAL HEARINGS. Quasi-judicial hearings require notices to all affected property owners within one hundred (100) feet of the subject property be mailed at least ten (10) days before each hearing on the proposed amendment.

SECTION 7.6 – LEGISLATIVE OR QUASI-JUDICIAL AMENDMENT PROCEDURAL PROCESS. The Planning Commission shall conduct a public hearing on the proposed amendment. Within forty-five (45) days after the hearing, the Planning Commission shall render a decision. The decision of the Planning Commission shall then be brought before the City Council along with a summary of the Planning Commission’s proceedings and findings of fact, at the second regular Council meeting following said Planning Commission decision, except that in no event shall the decision be brought to the City Council until after the time for appeal has elapsed. The City Council shall then review the decision of the Planning Commission on the record without hearing further evidence. It shall either affirm the decision of the Planning Commission or set the matter for hearing “de novo” before the City Council. The City Council must take final action on an amendment request. Amendments shall be made by ordinance.

# FOSSIL ZONING ORDINANCE

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SECTION 7.7 – LEGISLATIVE AMENDMENTS. Legislative amendments are broad-based amendments which impact the whole City not just a specific neighborhood or area. Most text amendments are legislative. No specific hearing procedure is required. The Planning Commission and/or City Council are acting as legislators, making new law for the City. It is suggested, in order to provide a sound format for the hearing process, that the quasi-judicial procedure be followed.

SECTION 7.8 – QUASI-JUDICIAL HEARING REQUIREMENTS.

- (1) The following criteria must be followed in deciding upon a quasi-judicial proceeding.
  - (A) The burden in all land use proceedings is upon the applicant, whether a zone change, conditional use or variance is the subject of the hearing.
  - (B) The requested zone change or conditional use must be justified by proof that:
    1. The change is in conformance with the Comprehensive Plan and also the goals and policies of the Plan.
    2. The showing of public need for the rezoning and whether that public need is best served by changing the zoning classification on that property under consideration.
    3. The public need is best served by changing the classification of the subject site in question as compared with other available property.
    4. The potential impact upon the area resulting from the change has been considered.
  - (C) Approval Criteria for Amendments.
    1. The applicant must show that the proposed change conforms with the Comprehensive Plan.
    2. A plan or land use regulation amendment significantly affects a transportation facility if it:
      - a. Changes the functional classification of an existing or planned transportation facility;
      - b. Changes standards implementing a functional classification system;
      - c. Allows types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or

# FOSSIL ZONING ORDINANCE

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- d. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

3. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

- a. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
- b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
- c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

- (2) The courts will require a "graduated burden of proof" depending upon the drastic nature of the proposed rezoning.
- (3) Procedural Process of a quasi-judicial hearing.
- (4) Parties at a rezoning hearing must have an opportunity to be heard, to present and rebut evidence.
- (5) There must be a record which will support the findings made by the decision makers.
- (6) Pre-hearing contact must be disclosed by the decision-makers at the outset of the public hearing.

SECTION 7.9 – NOTIFICATION OF DECISION. Within 5 working days after a final decision on an amendment to the comprehensive plan, zoning ordinance text or plan/zone map, the City Recorder shall provide the applicant and the Department of Land Conservation and Development a complete copy of the City Council decision. Within 5 working days after a final decision, the City shall also provide notice of the decision to all persons who participated in the local proceedings and requested in writing that they be given notice. The notice shall meet the requirements of ORS 197.615.

SECTION 7.10 – LIMITATION OF REAPPLICATIONS. No application of a property owner for an amendment to a zone boundary shall be considered by the Planning Commission within the one year period immediately following a previous denial of such request, except the Planning Commission may



## FOSSIL ZONING ORDINANCE

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permit a new application if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

SECTION 7.11 – RECORD OF AMENDMENTS. The Recorder shall maintain records of amendments to this ordinance.

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# FOSSIL ZONING ORDINANCE

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## Article 8

### Administrative Provisions

SECTION 8.1 – ADMINISTRATION. The City Recorder is appointed by the City Council and shall have the power and duty to enforce the provisions of this ordinance. An appeal from a ruling by the City staff or regarding a requirement of the ordinance may be made only to the City Planning Commission.

SECTION 8.2 – BUILDING PERMIT REQUIRED. Prior to the erection, movement, reconstruction, extension, enlargement, or alteration of any structure, a permit for such erection, movement, reconstruction, extension, enlargement, or alteration shall be obtained from the City Recorder. The applicant shall pay a fee as established by City ordinance at the time the application is filed.

SECTION 8.3 – FORM OF PETITIONS, APPLICATIONS AND APPEALS. All petitions, applications, and appeals provided for in this ordinance shall be made on the forms provided by City Recorder.

SECTION 8.4 – FILING FEES.

- (1) Filing fees are established by a separate Resolution of the City Council.
- (2) The City of Fossil, like many cities in Oregon, is faced with a severely reduced budget for the administration of the City's ordinances. The land use planning process in the State of Oregon has become increasingly complex. To properly process a land use application, the City must rely upon professional consultants to assist in preparing the legal notices, conducting on-site inspections, preparation of staff reports and, in some cases, actual attendance at the Planning Commission and/or City Council meeting. The City utilizes a consultant to ensure land use applications are processed fairly and promptly. Because of the reduced budgets, the City finds it necessary to transfer those administrative costs to the applicant, as a part of the land use planning process.

SECTION 8.5 – PUBLIC HEARINGS.

- (1) Each notice of hearing authorized by this ordinance shall be published in a newspaper of general circulation in the City at least ten (10) days prior to the date of hearing.
- (2) In addition, a notice of hearing on a conditional use, a variance, or an amendment to a zone boundary shall be mailed to owners of property within 100 feet of the property for which the variance, conditional use or zone boundary amendment has been requested. The notice of hearing shall be mailed at least ten (10) days prior to the date of the hearing.

Said notice shall - - -

- (A) Explain the nature of the application and the proposed use or uses which could be authorized, ORS 197.763(3)(a).

# FOSSIL ZONING ORDINANCE

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- (B) List the applicable criteria from the ordinance and the plan that apply to the application, ORS 197.763(3)(b).
- (C) Set forth the street address or other easily understood geographical reference to the subject property, ORS 197.763(3)(c).
- (D) State the date, time, and location of the hearing, ORS 197.763(3)(d).
- (E) State that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, precludes appeal to LUBA based on that issue, ORS 197.763(3)(3) [and ORS 197.763(1)1.
- (F) State that failure to provide sufficient specificity to afford the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue, ORS 197.763(3)(e).
- (G) Include the name of a local government representative to contact and a telephone number where additional information may be obtained, ORS 197.763(3)(9).
- (H) State that a copy of (1) the application, (2) all documents and evidence relied upon by the applicant, and (3) applicable criteria are available for inspection at no cost and will be provided at reasonable cost, ORS 197.763(3)(h).
- (I) State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost, ORS 197.763(3)(l).
- (J) Include a general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings, ORS 197.763(3)(j).
- (K) If a proposed zone boundary amendment has been initiated by the City and is declared by the City to be a major reclassification, the mailing of individual notice is not required but such additional means of informing the public as may be specified by the Council shall be observed.

SECTION 8.6 – AUTHORIZATION OF SIMILAR USES. The Planning Commission may permit, by following the procedures outlined in Article 5, in a particular zone, a use not listed in this ordinance, provided the use is of the same general type as the uses permitted there by this ordinance. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone or which is of the same general type and is similar to a use specifically listed in another zone.

## SECTION 8.7 – APPEAL FROM DECISION OF THE CITY STAFF

- (1) An appeal from a decision of the City Staff may be filed with the City Recorder.

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- (2) An appeal from a decision of the City Staff may only be initiated by filing a Notice of Intent to Appeal.
- (3) The decision of the City Staff shall be final, unless a written Notice of Intent to Appeal is filed with the City Recorder within 15 days of the date of the decision.
- (4) The Notice of Intent to Appeal shall contain a copy of the application for the permit and a copy of the City Staff's decision.
- (5) The Notice of Intent to Appeal shall state the specific issues which are the basis for the appeal and the specific reasons the appellant contends the decision of the City Staff is not in conformance with the applicable criteria and standards set forth in The City Zoning Ordinance.
- (6) A Notice of Intent to Appeal shall be accompanied by the required fee as set by City Council resolution.
- (7) An appeal of a decision of the City staff shall be heard by the Planning Commission following the procedures of Section 8.5, Public Hearings.

### SECTION 8.8 – APPEAL OF DECISIONS OF THE PLANNING COMMISSION

- (1) The applicant, or any person who provided testimony, either in person or in writing, at the hearing before the Planning Commission, may appeal the decision of the Planning Commission to the City Council.
- (2) The appeal of a decision of the Planning Commission may only be initialized by filing a Notice of Intent of Appeal, as set forth in this section.
- (3) The decision of the Planning Commission shall be final, unless a written Notice of Intent of Appeal is filed with the City Recorder within 15 days from the date it was signed by the Chair, unless the City Council, on its own motion, orders a review of the decision within 15 days of the date of the recorded decision.
- (4) Every Notice of Intent Appeal shall contain:
  - (A) A copy of the application or adequate reference to the matter sought to be appealed and the date of the decision of the Planning Commission;
  - (B) A statement that the appellant either participated in the hearing in person or in writing or that the appellant is the applicant;
  - (C) The specific issues which are the basis for the appeal and the specific reasons the appellant contends the decision of the hearing body is not in conformance with the Comprehensive Plan, Zoning Ordinance, Subdivision or Oregon Revised Statutes. Such

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issues shall be raised with sufficient specificity so as to afford the City Council an adequate opportunity to respond to each issue;

- (D) The required fee as set by this ordinance.
- (5) Hearings before the City Council shall be conducted in compliance with Section 8.5, Public Hearings.
- (6) The City Council's consideration of the Planning Commission's decision may be confined to the record of the proceeding before the Planning Commission, or, the Council may hear the material de novo. The record shall include:
  - (A) All materials, memorandum, stipulations, exhibits and motions submitted during the proceeding and received or considered by the Planning Commission;
  - (B) All materials submitted by the City staff with respect to the application;
  - (C) The minutes of the hearing before the Planning Commission;
  - (D) The written decision of the Planning Commission;
  - (E) The Notice of Intent to Appeal;
  - (F) Oral and written argument, if any, by the hearing participants, their legal representatives or City staff, made at the time of the hearing before the City Council.
- (7) The City Council may affirm, reverse or modify the action of the Planning Commission in full or in part. The City Council may also remand the matter back to the Planning Commission for further consideration.
- (8) The City Council shall adopt a written decision that clearly states the basis for its decision within thirty (30) days of the close of the hearing. When an application is approved, the term of approval shall be specified, including any restrictions and conditions. A proposed decision submitted by the City Staff or any other person may be adopted by the City Council as submitted, or as amended by the City Council.

SECTION 8.9 – RESUBMITTAL If a request is denied by the City Staff or hearing body and no appeal is filed, or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six (6) months after the date of final denial. An application may be denied without prejudice and a waiver of the six month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the hearing body, on its own motion, may consider new evidence and waive the six (6) month restriction.

## FOSSIL ZONING ORDINANCE

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SECTION 8.10 – FINAL ACTION. Except as provided for under ORS 227.178, the City shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under ORS 227.180, within 120 days from the date a complete application is submitted to the City. Within 30 days of receipt of an application, the City will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the 30-day period. The 120-day time period will commence on the date the application is complete.

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## Article 9 General Provisions

SECTION 9.1 – INTERPRETATION. Where a provision of this ordinance is less restrictive than another ordinance or requirement of the City, the provision or requirement which is more restrictive shall govern.

SECTION 9.2 – SEVERABILITY. The provisions of this ordinance are severable. If a section, sentence, clause or phrase of this ordinance is adjudged by a court of competent Jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 9.3 – ABATEMENT AND PENALTY.

- (1) Violation of any provision of this ordinance or of any amendment of this ordinance is punishable upon conviction by a fine of not more than \$100.00 for each day of violation where the offense is a continuing offense.
- (2) In case a building or other structure is or is proposed to be located, constructed, maintained, repaired, altered, or used, or land is or is proposed to be used, in violation of this ordinance, the building or land thus in violation shall constitute a nuisance and the City may, as an alternative to other remedies that are legally available for enforcing this ordinance, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

SECTION 9.4 – REPEALER. Fossil Ordinance #206 and all amendments thereto are hereby repealed.

# FOSSIL ZONING ORDINANCE

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## Article 10 Adoption

1. These proposed amendments were presented to the Fossil City Council on \_\_\_\_\_, 20\_\_.

2. The Fossil City Council made these amendments available to the public and conducted a legislative hearing on \_\_\_\_\_, 20\_\_.

3. At the close of the public hearing, Council moved unanimously to adopt these proposed amendments.

Read for the first time: \_\_\_\_\_, 20\_\_.

Read for the second time by title only \_\_\_\_\_, 20\_\_.

Read for the third time and passed: \_\_\_\_\_, 20\_\_.

Approved by the Mayor: \_\_\_\_\_, 20\_\_.

CITY OF FOSSIL, OREGON

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder



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**Ordinance No. 417**  
**ZONING ORDINANCE**

**City of Fossil**  
**WHEELER COUNTY, OREGON**

PREPARED FOR THE  
**FOSSIL CITY PLANNING COMMISSION**  
**AND CITY COUNCIL**

PREPARED BY  
**Daniel R. Meader, Planning Consultant**  
**TENNESON ENGINEERING CORPORATION**  
**409 Lincoln Street**  
**The Dalles, Oregon 97058**

**Adopted**  
**June 12, 2001**

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