

CITY OF RAJNEESHIPURAM  
COMPREHENSIVE PLAN

DEVELOPMENT CODE  
VOLUME 3



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COMPREHENSIVE PLAN

DEVELOPMENT CODE  
VOLUME 3

1982



"America is young, lives in the moment, hence there is great exploration going on about everything: science, religion, philosophy, art, new forms of art, new methods, new ways to reach the moon, to reach Mars and finally to reach the stars. New ways to enter meditation. In every dimension America is interested in exploring; the young man's adventurous spirit is there. America is just on the verge of a great step; if a new step is going to happen anywhere, it is going to happen in America."

Bhagwan Shree Rajneesh

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## RAJNEESHPURAM CITY COUNCIL

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September 7, 1982

Dear Residents and Friends of Rajneeshpuram,

Today, the City Council of Rajneeshpuram has adopted this Comprehensive Plan as the official guide for its future development. Written in three volumes, it provides a thorough description and analysis of the present, outlines broad goals and policies for the future, and details a code of standards by which we will build our new City.

Born out of the same love and commitment that created the City itself, the Plan evolved in a few short months into a document that is truly comprehensive - bringing all aspects of community life together into one integrated vision. Recognizing the interrelated nature of the community's economic base, its facilities and services, and its natural environment, the Plan provides a wholistic design for the City's development. The adoption of the Plan initiates an experiment in a balanced way of living - people uniting modern technological efficiency with respect for nature and each other.

The City Council recognizes and applauds the community-wide effort that went into this Plan. Also, the Council thanks all the federal, state, county and private agencies for their review and comments on earlier drafts.

On May 18, 1982, the City of Rajneeshpuram was incorporated. On August 10, the first City Council was elected. Now, we ask you to join us in celebrating the adoption of this Plan and taking the next major step toward making our vision real.

With love,

Rajneeshpuram City Council





CITY OF RAJNEESHPURAM, OREGON

ORDINANCE NO. 82-08

AN ORDINANCE ADOPTING A DEVELOPMENT CODE FOR THE CITY OF RAJNEESHPURAM;  
AND DECLARING AN EMERGENCY.

---

WHEREAS, a Comprehensive Plan for the City of Rajneeshpuram has been adopted; and

WHEREAS, the City must submit implementing ordinances to the State in conjunction with submission of its Comprehensive Plan; and

WHEREAS, a series of three public hearings has been held by the Rajneeshpuram City Council to provide adequate opportunity to allow and encourage all interested persons to appear and be heard on the proposed Development Code; and

WHEREAS, the City has received extensive input from citizens and residents of the surrounding area and from the Committee for Citizen Involvement on the proposed Development Code; and

WHEREAS, the City has received input from coordinating agencies on the proposed Development Code;

The City of Rajneeshpuram ordains as follows:

Section 1. Development Code.

The Rajneeshpuram Development Code, as presented to the Council on this day, is adopted as set out in the document attached and by reference made a part of this Ordinance.

Section 2. Publication.

The Community Development Director is authorized and directed to prepare for the Council a final publication of the Development Code. The final publication will be recorded with the City Recorder and shall be the official document of this adoption Ordinance.

Section 3. Emergency.

As it is necessary for the peace, health and safety of the people of Rajneeshpuram that a Development Code be adopted immediately, to allow the implementation of the Comprehensive Plan, an emergency is declared to exist and this Ordinance shall become effective upon its passage by the Council and signing by the Mayor.

PASSED: By 5-0 vote of the City Council this 7th day of September, 1982.

ma sat prabodhi  
City Recorder, City of Rajneeshpuram

APPROVED: This 7th day of September, 1982.

Swami Krishna Deva  
Mayor, City of Rajneeshpuram



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Article One: GENERAL PROVISIONS





ARTICLE ONE

GENERAL PROVISIONS

SECTION 1.010: TITLE

This ordinance shall be known as the Development Code of the City of Rajneeshpuram, and shall be referred to herein as this Code.

SECTION 1.020: PURPOSE

As a means of promoting the general health, safety and welfare of the public, this Code is designed to set forth the standards and procedures governing the development and use of lands in Rajneeshpuram and to implement the Rajneeshpuram Comprehensive Plan. To these ends, it is the purpose of this Code to:

- A. ensure that the development of property within the City is commensurate with the physical characteristics of the land, and, in general, to promote and protect the public health, safety, convenience and welfare;
- B. promote and diversify the economy of the City;
- C. assure the continued provision of an adequate type and supply of land for various uses sufficient to accommodate future growth;
- D. encourage the provision of affordable housing in quantities adequate to allow all citizens some reasonable choice in the selection of a place to live;
- E. conserve all forms of energy through sound economical use of land and land uses developed on the land;
- F. provide for the orderly and efficient transition from rural to urban land use;
- G. afford an efficient and orderly development and arrangement of public services and facilities within the City;
- H. provide for and encourage a safe, convenient and economic transportation system within the City;

- I. protect the quality of air and water resources of the City;
- J. protect life and property in areas subject to floods, landslides and other natural disasters and hazards;
- K. provide for the recreational needs of residents of Rajneeshpuram and visitors to the City;
- L. provide the means for citizens to be involved in aspects of the planning process;
- M. conserve needed open space and protect historic, cultural, natural and scenic resources.

SECTION 1.030: EFFECTIVE DATE

This Code shall become effective when filed with the City of Rajneeshpuram City Recorder. Amendments hereto, unless otherwise specified, shall be effective when filed with the City Recorder.

SECTION 1.040: SEVERABILITY

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

SECTION 1.050: COMPLIANCE AND SCOPE

Land may be used and a structure may be used or developed by construction, reconstruction, alteration, occupancy or otherwise, only as this Code or any amendment thereto permits. In addition, each such development or use shall comply with the City of Rajneeshpuram Comprehensive Plan. The requirements of this Code apply to the person undertaking the development or the use of the development and to the person's successor in interest.

SECTION 1.060: CONSISTENCY WITH THE PLAN AND LAWS

Applications and other procedures initiated under this Code shall be consistent with the adopted Comprehensive Plan of the City of Rajneeshpuram and with applicable state and federal laws and regulations. All provisions of said Code shall be construed in conformity with the adopted Comprehensive Plan.

#### SECTION 1.070: INTERPRETATION

- A. The provisions of this Code shall be liberally construed to effect the purpose set forth elsewhere in this Article. These provisions are declared to be the minimum requirements necessary to fulfil such objectives.
- B. In the event there is a conflict or inconsistency between the heading of an article, section or subsection and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.
- C. Words used in the singular include the plural and words used in the plural include the singular; the word "shall" is mandatory and the word "may" is permissive.

#### SECTION 1.080: USE OF A DEVELOPMENT

A development shall be used only for a lawful use. A lawful use of a development is one that is not prohibited by law and for which the development is designed, arranged and intended or which is a continuing non-conforming use.

#### SECTION 1.090: DEFINITIONS

For the purposes of this Code the following terms, phrases and words and their derivations shall have the meanings given herein:

##### Accessory Use or Structure

A use or structure which is incidental and subordinate to the principal use.

##### Campground

An area where facilities are provided to accommodate the temporary use of tents, campers, recreational vehicles and camping vehicles by the traveling public.

##### Camping Vehicle

Either a vacation trailer or a self-propelled vehicle or structure equipped with wheels for highway use, which is intended for human occupancy and is being used for vacation and recreational purposes but not for permanent habitation, and which is equipped with plumbing, sink or toilet.

### Cemetery

Land used or intended to be used for the burial or disposal of the dead, and dedicated to cemetery purposes; including columbarium crematories, mausoleums, mortuaries and similar uses operated in conjunction with said cemetery.

### City

City shall mean the area within the territorial limits of the City of Rajneeshpuram.

### Commercial Use

Commercial Use refers to establishments or places engaged in the distribution and sale or rental of goods, and the provision of services including, but not limited to, the following: retail and wholesale trade establishments, repair and maintenance service establishments, professional offices and services, financial institutions, hotels and motels, and uses deemed by the Director as similar to these.

### Community Cafeteria

A building and facilities utilized principally for, but not limited to, the preparation, storage and service of food for residents and guests of the community.

### Comprehensive Plan

The generalized, coordinated land use map and policy statement of the governing body of the City of Rajneeshpuram that interrelates all functional and natural systems and activities relating to the use of lands, including, but not limited to: sewer and water systems, transportation systems, educational facilities, natural resources, and air and water quality management systems. Comprehensive means all inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the Plan. Generalized means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is coordinated when the needs of all levels of government, semi-public and private agencies and the citizens of Rajneeshpuram have been considered and accommodated as much as possible. Land includes water, both surface and subsurface, and the air.



### Concept Plan

A plan for a Designated Planning Area that indicates the location and size of major public facilities, the location of buildable and non buildable land, and the allowable residential density in residential DPAs, and serves as a standard for the future approval of building permits and review of site plans.

### Corner Lot or Parcel

A lot or parcel abutting on two intersecting streets other than an alley, excluding lots or parcels with boundary line angles greater than 135°.

### Council

Council shall mean the City Council of Rajneeshpuram.

### Detention

The act of detaining or storing storm water runoff for a short period of time during and after a storm.

### Designated Planning Area (DPA)

A DPA is an area of topographically distinct gross buildable land, as depicted on the Land Use Plan Maps in the Comprehensive Plan. Each DPA is assigned to one or more of Development Phases A, B and C by the Comprehensive Plan.

### Development

Bringing about growth or availability; constructing or altering a structure, conducting a mining operation, making a physical change in the use or appearance of land, dividing land into parcels, or creating or terminating rights of access; except that development does not include landscaping or other treatment or use of the land surface involving a structure, a change to a building or a sign that is accessory to a structure or use, an alteration that does not substantially affect the use or appearance of land or a structure, storage on the land and clearing of land.

### Development Code

The City of Rajneeshpuram Development Code.

Developer

The owner(s) of land proposed to be developed or partitioned, or an authorized representative.

Director

The City of Rajneeshpuram Community Development Director.

Division of Land

The process of separating a tract, lot or parcel into two or more lots or parcels by subdividing or partitioning. A division of land shall be deemed to have occurred when instruments are executed whereby title to less than the entire area of a lot of record are recorded.

Easement

Authorization by a property owner for the use of another, for a specified purpose, of a designated part of his property.

Educational Facilities

Any public or private institution for learning.

Farm Use

The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops, or by feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honey bees or for dairying or horticultural use or animal husbandry or any combination thereof. Farm Use includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise.

It does not include the use of land subject to the provisions of ORS 321 (timber taxation), except land used exclusively for growing cultured Christmas Trees as defined by ORS 215.013(3).

Current Employment of land for farm use includes: (a) land subject to the soil bank provisions of the Federal Agricultural Act of 1956, as amended (P.L. 84-540, 70 Sta., 188); (b) land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (c) land planted in orchards or other perennials prior to maturity; (d) any land constituting a woodlot of less than 20 acres continuous to and owned by the owner of land specially assessed at true cash value for

farm use even if the land constituting the woodlot is not utilized on conjunction with farm use; (e) wasteland, in an exclusive farm use zone, dry or covered with water, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use; (f) land under dwellings customarily provided on conjunction with the farm use in an exclusive farm use zone; and (g) land under buildings supporting accepted farm practices.

#### Fish and Wildlife Management

The protection, preservation, propagation, promotion and control of wildlife by either public or private agencies or individuals.

#### Flood Hazard Area

The area subject to a Regional (100-year) Flood.

#### Height

The height of a structure is the vertical distance from the highest point of the roofline of the structure to the average of the highest and lowest points where the exterior walls touch the grade.

#### Home Occupation

Any lawful activity, occupation or profession carried on within a residence, and in which said activity, occupation or profession is secondary to the use of the residence for residential purposes, provided the following conditions are satisfied:

- A. there will be no display that would indicate from the exterior that the structure is used in whole or in part for any purpose other than a residence except that only a non-illuminated sign attached to the structure having an area less than six square feet can be used; and
- B. the building retains the characteristics of a residence.

#### Hotel

A structure that is designed, intended, or used for the accommodation of tourists, transients and permanent guests for compensation.

Industrial Uses

Any use of land, structure or natural resources involving the manufacturing, processing or assembly of semi-finished or finished products from raw materials, or similar treatment or packaging of previously prepared materials.

Interior Lot or Parcel

A lot or parcel other than a corner lot or parcel.

Lot

A unit of land that is created by subdividing land.

Major Partition

A partition which includes the creation of a road or street.

Minor Partition

A partition whose creation does not include a road or street.

Mobile Home Park

Any place where four or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

Motel

A structure or group of structures containing guest units, which building or group is intended or used primarily for the accommodation of transient travelers.

Multiple-Passenger Exchange Stations

Includes, but is not limited to, bus stops, designated car pool vehicle parking spaces, etc.

Multiple Passenger Transit

Includes buses, car pools, van pools and taxis.

### Negotiation

Any activity preliminary to the execution of a binding agreement for the sale of land in a subdivision or partition, including but not limited to advertising, solicitation and promotion of the sale of such land.

### Non-Conforming Use or Structure

A lawfully existing structure or use, or one in the process of being constructed at the time of the adoption of this Code, which does not conform to the setback, coverage, height, use or other similar requirements of the district in which it is located.

### Owner

An individual, association, partnership or corporation having legal or equitable title to real property, other than legal title held for purposes of security only.

### Parcel

A unit of land that is created by partitioning land.

### Park

An open or enclosed tract of land set apart and devoted to the purposes of pleasure, recreation, ornament, light and air for the general public.

### Parking Space

An area nine (9) feet by eighteen (18) feet within a private or public parking area, building or structure, for the parking of one vehicle.

### Parkway

That portion of street right of way lying between the curb line of the improved roadway and the adjacent private property.

### Partitioning Land

To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partitioning land does not include divisions of land resulting from lien foreclosures,

divisions of land resulting from foreclosures of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and partitioning land does not include any adjustment of a lot line by the re-location of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance. Partitioning land does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

### Plat

A final map, diagram or other writing containing all the descriptions, specifications and provisions concerning a subdivision.

### Recreation

Any experience voluntarily engaged in largely during leisure (discretionary) time from which the individual derives satisfaction.

### Recreation Facilities

Facilities for residents and visitors for recreation, such as community centers with eating facilities, libraries, music and dance studios, pools, tennis courts, volleyball courts, handball courts, hiking trails, boating facilities, gyms, saunas, health clubs and similar uses and structures.

### Recreational Vehicles

A vacation trailer or other unit, with or without motor power, which is designed for human occupancy and to be used temporarily for recreation or emergency purposes and has a floor space of less than 200 square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures and bath or toilet rooms. The unit shall be identified as a recreational vehicle by the manufacturer.

### Recreational Vehicle Park

Any place where recreational vehicles are located, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

### Regional (100-Year) Flood

A standard statistical calculation used by engineers to determine the probability of severe flooding. It represents the largest flood that has a one percent chance of occurring in any one year in an area as a result of periods of higher-than-normal rainfall or streamflows, extremely high tides, high winds, rapid snowmelt, natural stream blockages, tsunamis or combinations thereof.

### Residence

A structure designed for occupancy as living quarters for one or more persons.

### Retention

The act of retaining or storing storm water runoff permanently or for a considerable length of time for some use, or until it percolates into the ground or evaporates.

### Right of Way

A strip of land occupied or intended to be occupied by a street, crosswalk, pedestrian and bike paths, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use. The usage of the term right of way for land division purposes shall mean that every right of way hereafter established and shown on a plat or map is to be separate and distinct from the lots or parcels adjoining such right of way and not included within the dimensions or areas of such lots or parcels.

### Street

A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels or areas of land, excluding driveways or private ways that are created to provide ingress or egress to such land for mining, quarrying, agriculture or similar purposes.

### Street Width

The distance between right of way lines.

### Structure

Anything constructed or installed or portable, the use of which requires a location on a parcel of land, except that structure

shall not include radio or television towers or discs, tents or recreational vehicles.

#### Subdividing Land

To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

#### Telephone Communication Room

A structure used primarily for telephone and telex/telegraph communication.

#### Television and Video Room

A structure used primarily for television and video equipment. The building may also have ping-pong and bridge tables and other similar uses.

#### Temporary

Nonpermanent or seasonal by nature.

#### Tentative Plans

The preliminary proposal for a subdivision, which includes the information specified in this Code.

#### Transit Facilities

Includes, but is not limited to, multiple-passenger loading/unloading stations, pedestrian paths connecting buildings and loading/unloading stations (or to other paths which, in turn, connect to stations), multiple-passenger transit waiting shelters and furniture and transit information stations.

#### Travelers' Accommodation

Includes any establishment having rooms or apartments rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid for rental or use of the facilities.

#### Use

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



## Utility Facilities and Services

Facilities and services for providing:

- A. electric power: electric substations and attendant distribution and transmission facilities;
- B. communication: structures for reception or transmission of telegraph, telephone, microwave, television, radio, and other similar signals;
- C. water: including water towers and reservoirs, pumping stations and similar facilities necessary for the installation and use of potable and nonpotable water system;
- D. sewage: pumping stations, collection and treatment facilities, drainfields, sand filters, sewage lagoons and similar facilities necessary for a public sewerage system;
- E. transportation: multi-passenger exchange stations, waiting shelters, transit facilities;
- F. solid waste disposal: including sanitary landfill and other similar facilities; collection and recycling facilities;
- G. fire protection: including hydrants and facilities necessary to work in conjunction with a public water system to provide adequate fire protection for land, buildings and persons within the City limits and the surrounding areas;
- H. drainage: storm drainage;
- I. irrigation systems;
- J. street name signs and signs related to neighborhood or civic facilities;
- K. parks;
- L. other similar services as determined by the Director.

## Vegetation

All plant growth, especially treest, shrubs, mosses and grasses.

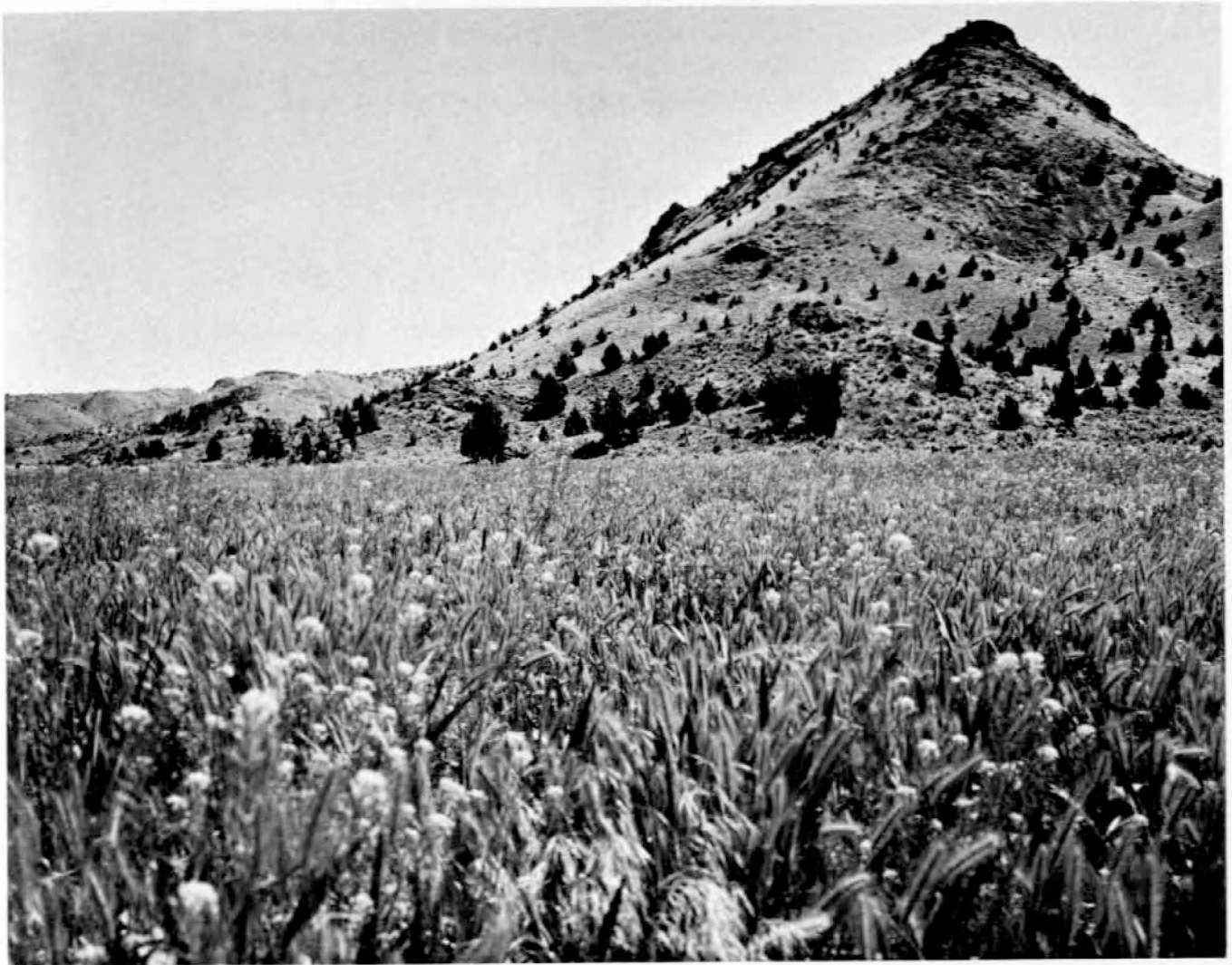
### Waiting Shelters

An area providing protection from weather, visual access, and physical proximity to arriving transit vehicles; may be as simple as an extended overhang or protected entry or as elaborate as a separate structure complete with furniture.

### Zoning Map

The City of Rajneeshpuram Zoning Map.

Article Two: ADMINISTRATIVE PROVISIONS





ARTICLE TWO

ADMINISTRATIVE PROCEEDINGS

SECTION 2.010: PURPOSE

The purpose of this part is to establish procedures under this Code for the consideration of development applications, for the consideration of quasi-judicial comprehensive amendments, and for review of decisions.

SECTION 2.020: DEFINITIONS

As used in this part:

- A. "Administrative action" means a quasi-judicial action, including,
  - 1. an action conducted pursuant to a portion of this Code in which the legal rights, duties or privileges of specific parties are determined, and any review therefrom;
  - 2. a Comprehensive Plan map change; and
  - 3. other proceedings as provided by ordinance, rule or resolution adopted by the Council.
- B. "Approval authority" means either the Director, the Hearings Officer or the Council, depending on the context in which the term is used.
- C. "Comprehensive Plan" shall have the meaning set forth in ORS 197.015(9), shall embody the elements listed in the statewide land use planning goals adopted pursuant to ORS 197.240, and shall include text and maps.
- D. "Council" means the City Council of Rajneeshpuram, Oregon.
- E. "Development application" means any application required by this Code for the following activities: man-made change to real estate, including but not limited to the construction, alteration or use of buildings, the division of land, creation of public or private streets or ways, mining, excavation, any other activity specifically regulated by the provisions of this Code; and specifically including applications for Comprehensive Plan map changes, zoning map changes, concept plan approvals and building permit approvals.

- F. "Director" means the Community Development Director of Rajneeshpuram, Oregon, or his authorized agent.
- G. "Final action," "final decision," or "final order" means: a determination reduced to writing, signed and filed by appropriate approval authority and subject to application and disposal of a Petition for Rehearing, as appropriate.
- H. "Hearing Officer" means a person appointed by the Council under Section 2.050 of this Article to hear applications listed in Section 2.060.C of this Article.
- I. "Implementing ordinance" means an ordinance adopted to carry out the Comprehensive Plan, including but not limited to the provisions of this Code.
- J. "Party" means a person who has the right to pursue review of a decision of an approval authority as provided in Section 2.240.
- K. "Quasi-judicial action" means an action that involves the application of adopted policy to a specific development application or amendment, as provided by this Article.
- L. "Review" means a request that a final decision by the initial approval authority be considered by a higher authority only on the basis of the record made before the initial hearing body.

ARTICLE 2.030: THE APPLICATION PROCESS

A. Who May Apply

- 1. Application for approval required under this Article may be initiated by:
  - a. the owner of the property that is the subject of the application;
  - b. the purchaser of such property who submits a duly executed written contract or copy thereof that has been recorded with the Wasco County Clerk;
  - c. a lessee in possession of such property who submits written consent of the owner to make such application;
  - d. resolution of the Council.

2. Any persons authorized by this part to submit an application for approval may be represented by an agent who is authorized in writing by such a person to make the application.

B. The Requirements for Making an Application - Refusal of an Application

1. The application shall be made on forms provided by the Director as provided by Section 2.040.A of this Code.
2. The application shall be complete and shall contain the information requested on the form, address the appropriate criteria in sufficient detail for review and action, and be accompanied by the requisite fee.
3. The Director shall not accept incomplete applications or applications not accompanied by the requisite fee. An application shall not be deemed "complete" unless it addresses each element required to be considered under applicable provisions of this Code and the application form.

C. Fees

The Council shall adopt by resolution a schedule of fees reasonably calculated to defray the expenses of the administrative processes of this Code. The Council may waive any fee upon timely application and shall charge no fees for City-initiated applications or Committee for Citizen Involvement requests for review.

SECTION 2.040: DUTIES OF THE DIRECTOR

A. The Director shall:

1. prepare application forms made pursuant to the standards contained in the applicable state law, the Comprehensive Plan and implementing ordinance provisions;
2. accept all development applications which comply with the provisions of Section 2.030 of this Code;
3. within ninety (90) days after accepting an application pursuant to this article, act on the development application pursuant to Section 2.060.A and 2.100 of this Article or cause a hearing to be held pursuant to Section 2.060.B through C and 2.140 to 2.220 of

this article, unless the applicant has requested or consented to a delay;

4. maintain a register of all applications which have been filed for a decision. The register shall at all times identify at what stage the application is in the process;
5. administer the hearing process pursuant to Section 2.140 through 2.210 of this Article;
6. file notice of the final decision in the records of the Community Development Department and mail a copy of the notice of the final decision to the applicant and all parties. The notice of the final decision shall contain the information set forth under Section 2.120.B of this Article;
7. maintain and preserve the file for each application. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given pursuant to Sections 2.110 and 2.120 and the accompanying affidavits, the application and all supporting information, the staff report, the final decision, including the findings, conclusion and conditions, if any, all correspondence, the minutes of any meetings at which the application was considered, and any other exhibit, information or documentation which was considered by the hearing body with respect to the application; and
8. administer the review process pursuant to Sections 2.250 through 2.330 of this Article.

SECTION 2.050: HEARINGS OFFICER - APPOINTMENT - REMOVAL

- A. The position of Hearings Officer is hereby established to hear applications under Section 2.060.B of this Article.
- B. A Hearings Officer shall be appointed by the Council for a term of one year.
- C. The Council shall, in an annual report, review the work of the Hearings Officer and decide whether there be a continuing need for the position of Hearings Officer and whether the work of the incumbent in that position is or is not adequate.



- D. A Hearings Officer shall not be removed from such position prior to the expiration of his or her term, except for neglect or malfeasance in office.

SECTION 2.060: APPROVAL AUTHORITY

- A. The Director shall have the authority to approve, amend, deny or approve with conditions pursuant to Section 2.090 the following development applications, for which approval shall be granted as of right on compliance with the terms of this Code and the City's Comprehensive Plan, if applicable, in accord with the provisions of Section 2.100 of this Article:
1. variance;
  2. alteration or repair of a nonconforming use;
  3. temporary use permits;
  4. extensions of time in which to file final plats pursuant to Section 5.080;
  5. concept plans;
  6. building permits, water pollution control facilities permits, community water systems permits, and similar state agency permits which require approval or certification by the City or its agents;
  7. decisions on final map or plat of subdivisions;
  8. when phased development may be initiated; and
  9. minor partitions.
- B. The Hearings Officer shall have authority to approve, deny, or approve with conditions pursuant to Section 2.090 the following development applications, after holding a public hearing in accordance with Section 2.140 through 2.210 of this Article:
1. reviews of decisions made by the Director, pursuant to Section 2.250.A of this Article; and
  2. decisions on tentative plan map, plat of subdivisions and major partitions.
- C. The City Council shall have the authority to approve, deny, or approve with conditions pursuant to Section 2.090 the following development applications after the preparation of a staff report by the Director in the form set forth

in Section 2.100.B.2 and holding a public hearing in accordance with the provisions of Section 2.140 through 2.210 of this Article:

1. the formal imposition of plan and zone designations made to lands annexed to the City;
2. matters referred to the Council by the Hearings Officer for review under Section 2.140.D;
3. review of decisions of the Hearings Officer, whether on the Council's own motion or otherwise, as provided in Section 2.250.B;
4. Comprehensive Plan text or map amendments; and
5. Development Code text or map amendments.

SECTION 2.070: CONSOLIDATION OF PROCEEDINGS

Whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding. In such cases, the hearing shall be held by the approval authority having original jurisdiction over one of the applications under Section 2.060 in the following order of preference: City Council, Hearings Officer, or the Director.

SECTION 2.080: THE DECISION PROCESS OF THE APPROVAL AUTHORITY

- A. In all cases, the decision shall include: a statement in a form generally conforming to the requirements of Section 2.100.B.2.
- B. The approval authority may:
  1. adopt findings and conclusions contained in the staff report;
  2. adopt findings and conclusions of a lower approval authority;
  3. adopt its own findings and conclusions;
  4. adopt findings and conclusions submitted by any party;  
or
  5. adopt findings and conclusions, either with or without modification of the findings and conclusions from other

sources, which, upon making a tentative decision, it directs staff to prepare upon review and provide an opportunity for all parties to comment upon the same.

- C. The decision may be denial, approval with amendment pursuant to subsection E below, approval, or approval with conditions, pursuant to Section 2.090 where such conditions are necessary to:
  - 1. carry out the Rajneeshpuram Comprehensive Plan;
  - 2. carry out the applicable implementing ordinances;
  - 3. protect the public or surrounding property from possible deleterious effects of the proposed use; or
  - 4. assure that adequate public services are provided as part of the development or to assure that other required improvements are made.
- D. The decision may grant the application with respect to less than all of the parcel which is the subject of the application.
- E. The City Council may consider an alternative amendment to the Plan Zoning Map, in addition to that proposed in the application, upon the decision of the Director to so recommend, or upon its own motion. Such alternative zoning map change shall be considered only if:
  - 1. notice of such alternative be given as part of the hearing notice in addition to the matters contained in Section 2.110.B;
  - 2. the alternative classification be in the same general category (e.g., residential, industrial, commercial, etc.); and
  - 3. the staff report prepared by the Director pursuant to Section 2.060.C justifies such an alternative.
- F. A final decision shall be a decision which is in writing and which has been:
  - 1. formally adopted and signed by the approving authority, other than the Director in the case of an administrative action, and filed with the Director, the Building Official and the City Recorder; or

2. signed by the Director in the case of a decision by the Director and filed as a final decision in the manner set forth in Subsection F.1. above.

SECTION 2.090: CONDITIONAL APPROVALS - FAILURE TO FULFILL  
CONDITIONS

- A. Conditions of approval shall be fulfilled within the time limit set forth in the decision; or, if no time limit is set forth, within one year. Failure to fulfill any condition of approval within the time limitations provided may be grounds for revocation of approval, after notice and an opportunity to be heard as an administrative action.
- B. Changes, alterations or amendments to the substance of the conditions of approval shall be processed as a new administrative action.
- C. Prior to the commencement of development; i.e., the issuance of any permits or the taking of any action under the approved development application, the owner, and any contract purchasers, of the property which is the subject of the approved application, shall sign and deliver to the Director their acknowledgement and consent to such conditions.

D. Conditions of Approval

The conditional approval may require the owner of the property to sign within a time certain or, if no time is designed, within a reasonable time, a contract with the City for enforcement of the conditions. The Council or its designee shall have the authority to execute such contracts on behalf of the City. If a contract is required by a conditional approval, no building permit shall be issued for the use covered by the application until the executed contract is recorded in the real property records of the applicable county and filed in county records. Such contracts shall be enforceable against the signing parties, their heirs, successors and assigns by the City by appropriate action in law or suit in equity for the benefit of public health, safety and welfare.

- E. A bond, in a form acceptable to the Director or, upon appeal or review, by the appropriate authority, or a cash deposit from the property owners or contract purchasers in such amount as will assure compliance with the conditions imposed pursuant to this part may be required. Such bond

or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.

SECTION 2.100: DECISION BY THE DIRECTOR

- A. Pursuant to Section 2.060.A and 2.080 of this Article, the Director is authorized to approve certain development applications as of right upon compliance with the terms of this Code and the City's Comprehensive Plan, if applicable.
- B. In acting on development applications pursuant to this Section the Director shall:
  - 1. review the application, supporting information and any written comments submitted by citizens;
  - 2. prepare a staff report which shall include:
    - a. the facts deemed relevant to the application and found by the Director to be true;
    - b. those portions of the Rajneeshpuram Comprehensive Plan and implementing ordinances which the Director deems to be applicable to the proposal. If any portion of the plan or ordinances appear to be reasonably unrelated to the proposal and are deemed not applicable by the Director, the report shall explain why such portion or portions are not applicable;
    - c. an analysis relating the facts deemed true by the Director to the applicable criteria, resulting in a recommendation of denial, approval, or approval with conditions pursuant to Section 2.090;
  - 3. give notice of the Director's decision as provided by Section 2.120 of this Article;
  - 4. make the staff report and all case-file materials available at the time notice of a decision by the Director is provided to all persons entitled to notice under Section 2.120.A.
- C. A decision made by the Director shall be final unless:
  - 1. a party to the matter files a Notice of Review with the Director within seven (7) calendar days of the

sending of the notice of the decision pursuant to Section 2.120.A; or

2. the Council, on its own motion, orders review within the period of time specified by Subsection C.1. above.
- D. The Director shall report to the Council notices of decisions given under Section 2.120 on a regular basis.
- E. No Director's decision may be substantially modified from that set out in the notice given under Section 2.120 unless new notice of the modified decision be given.

SECTION 2.110: NOTICE OF PUBLIC HEARING

A. To Whom Notice is Given

Notice of a public hearing to be held by the Hearings Officer or City Council pursuant to Section 2.060.B or .C shall be given by the Director in the following manner:

1. at least ten (10) days prior to the scheduled hearing date, notice shall be sent by mail to:
  - a. the applicant and all owners or contract purchasers of record of the property which is the subject of the application;
  - b. all owners or record of property within two hundred and fifty (250) feet of the property;
  - c. any affected governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice;
  - d. the Committee for Citizen Involvement;
  - e. all parties to a review, as described in Section 2.240 of this Article.

The Director shall cause an affidavit of mailing of notice to be filed and made a part of the administrative record.

2. at least ten (10) days prior to the hearing, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record.

## B. Contents of the Notice

Notice given to persons entitled to mailed or published notice pursuant to Section 2.110.A shall include the following information:

1. the number and title of the file containing the application and the address and telephone number of the Director's office where additional information regarding the application and/or decision, as appropriate, can be obtained;
2. a description of the subject property, reasonably calculated to give notice as to its actual location, which shall include, but not be limited to, the metes and bounds description or the tax map designations of the applicable county assessor's office;
3. the nature of the application in sufficient detail to apprise those entitled to notice of the applicant's proposal; and
4. the time, place and date of the public hearing, a statement that public oral and written testimony is invited, and a statement that the hearing will be held under this Article and that any rules of procedure adopted by Council are available at the Director's office.

## SECTION 2.120: NOTICE OF FINAL DECISION

### A. To Whom Notice is Given

Notice of a final decision by the appropriate approval authority on a development application made pursuant to Section 2.060 shall be given by the Director in the following manner:

1. at the time of filing the decision set forth in the notice, notice shall be sent by mail to:
  - a. the applicant and all owners or contract purchasers of record of the property which is the subject of the application;
  - b. all owners of record of property within two hundred and fifty (250) feet of the property;

- c. the Committee for Citizen Involvement;
- d. any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City which includes provision for such notice;
- e. all parties to a review, as described in Section 2.240 of this Article.

The Director shall cause an affidavit of mailing of notice to be filed and made part of the administrative record.

2. at the time of filing of the decision, notice shall be posted in a conspicuous place in the City Hall, and at two additional locations within the City, in a manner which assures that the information thereon is legible from public right of way.

#### B. Content of Notice

Notice of a final decision by the appropriate approval authority made pursuant to Section 2.060 shall contain:

1. a description of the nature of the decision;
2. a statement of where the adopted findings of fact, decision and any statement of conditions can be obtained;
3. the date the final decision was filed;
4. in the case of a final decision by the Director or Hearings Officer pursuant to Section 2.060.A or .B:
  - a. a statement that a party to the proceeding may seek review of the decision. The statement shall explain briefly how review can be taken, the deadlines and where information can be obtained; and
  - b. a statement that a stay of the final decision, pending review, may be requested pursuant to Section 2.230.
5. in the case of a final decision by the City Council on review pursuant to Section 2.060.C.3:



- a. the date the decision will become effective, absent the filing of a Petition for Reconsideration; and
- b. a statement that a party to the review has a further remedy available through the filing of a Petition for Reconsideration and the deadline for filing such a petition.

SECTION 2.130: MECHANICS OF GIVING NOTICE AND FAILURE TO RECEIVE NOTICE

- A. The records of the applicable county assessor's office shall be the official records used for giving notice required by this Code, and a person's name and address which is not on file at the time the notice mailing list is initially prepared is not a person entitled to notice under Section 2.110 or 2.120 of this Article.
- B. The failure of a property owner to receive notice shall not invalidate the action provided a good-faith attempt was made to notify all persons entitled to notice.
- C. Personal notice is deemed given when the notice is deposited with the United States Postal Service. Published or posted notice is deemed given on the date it is published or posted.
- D. In computing the length of time that notice was given, the first date notice is deemed given shall be excluded and the day of the public hearing or the last day to file a Notice of Review shall be included unless the last day falls on any legal holiday or on Saturday, in which case the last day shall be the next business day.

SECTION 2.140: AN ADMINISTRATIVE ACTION - HEARINGS PROCEDURE

- A. Pursuant to Section 2.060.B and .C of this Article, the approval authority shall have the authority pursuant to Rules of Procedure adopted by the Council, to conduct a public hearing, and:
  1. determine who qualifies as a party;
  2. regulate the course, sequence and decorum of the hearing;
  3. dispose of procedural requirements or similar matters;

4. rule on offers of proof and relevancy of evidence and testimony;
  5. impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, cross-examination of witnesses and rebuttal testimony;
  6. take such other action appropriate for conduct commensurate with the nature of the hearing;
  7. approve or deny applications or approve with conditions pursuant to Section 2.120 of this Code.
- B. Unless otherwise provided in the Rules of Procedure adopted by the Council, the approval authority shall conduct the hearing as follows:
1. announce the nature and purpose of the hearing and summarize the rules for conducting the hearing;
  2. recognize parties;
  3. request the Director to present the staff report, to explain any graphic or pictorial displays which are part of the report, summarize the findings, recommendations and conditions, if any, and to provide such other information as may be requested by the approval authority;
  4. allow the applicant to be heard on his, her or its own behalf or by his, her or its representatives;
  5. allow parties or witnesses in favor of the applicant's proposal to be heard;
  6. allow parties or witnesses in opposition to the applicant's proposal to be heard;
  7. upon failure of any party to appear, the approval authority shall take into consideration written material submitted by such party;
  8. allow the parties to offer rebuttal evidence and testimony, and to respond to any additional evidence. The scope and extent of rebuttal shall be determined by the approval authority;

9. conclude the hearing by announcing officially that the public hearing is closed; and
  10. make a decision pursuant to Section 2.080 or take the matter under advisement pursuant to Section 2.160 of this Article.
- C. The following rules shall apply to the general conduct of the hearing:
1. the approval authority may ask questions at any time, before the close of the hearing, and the answers shall be limited to the substance of the question;
  2. parties or the Director must receive approval from the approval authority to submit directly questions to other parties or witnesses or the Director;
  3. a reasonable amount of time shall be given to persons to respond to questions;
  4. no person shall testify without first receiving recognition from the approval authority and stating a full name and address;
  5. the approval authority may require that testimony be under oath or affirmation;
  6. audience demonstrations such as applause, cheering and display of signs, or other conduct disruptive to the hearing shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing; and
  7. no person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
- D. The initial hearing body may refer any matter for Council action on the record made before it.

SECTION 2.150: EX-PARTE COMMUNICATIONS WITH APPROVAL AUTHORITY

- A. Members of the approval authority shall not:
1. communicate, directly or indirectly, with any party or representative of a party in connection with any issue involved except upon giving notice and opportunity for all parties to participate; nor

2. take notice of any communication, report or other materials prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.
- B. This Section shall not apply to decisions of the Director made pursuant to Section 2.060.A.

#### SECTION 2.160: CONTINUATION OF THE HEARING - NOTICE

The approval authority may continue the hearing from time to time to gather additional evidence, to consider the application fully, or to give notice to additional persons. Unless otherwise provided by the approval authority, no additional notice need be given of the continued hearing if the matter is continued to a date certain.

#### SECTION 2.170: SUBPOENA OR DEPOSITION OF WITNESSES

Any person wishing to subpoena or depose witnesses to a review may do so by application to the Director not less than seven (7) days prior to the hearing and a showing that the witness resides in Oregon, is unable or unwilling to appear and the testimony is material and relevant. Upon approval by the Director, application for subpoenas or depositions shall be made, after proper completion and payment of those fees applicable to civil cases, to the Wasco County Circuit Court.

#### SECTION 2.180: EVIDENCE

- A. All evidence offered and not objected to may be received unless excluded by the approval authority on its own motion.
- B. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs.
- C. No person shall present irrelevant or unduly repetitious testimony or evidence.
- D. Evidence shall be received and notice may be taken of those facts in a manner similar to that provided for in contested cases before state administrative agencies pursuant to ORS 183.540, except as otherwise provided for herein.

- E. Formal rules of evidence, as used in courts of law, shall not apply.

SECTION 2.190: OFFICIAL NOTICE

- A. The approval authority may take official notice of the following:
  - 1. all facts that are judicially noticeable. Such notified facts shall be stated and made part of the record;
  - 2. the statewide planning goals adopted pursuant to ORS 197.240;
  - 3. the Comprehensive Plan and other officially adopted plans, implementing ordinances, rules and regulations of the City of Rajneeshpuram.
- B. Matters officially noticed need not be established by evidence and may be considered by the approval authority in the determination of the application.

SECTION 2.200: PARTICIPATION IN THE DECISION - VOTING

- A. Each member of the approval authority shall be impartial; any member having a financial interest in the outcome of the proceeding, or having any prehearing contact, shall state for the record the nature of their involvement or contacts, and shall either:
  - 1. state that they are not prejudiced by the interest or contacts and will participate and vote on the matter; or
  - 2. state that they are prejudiced by the interest or contact and will withdraw from participation in the matter.

In the event of a challenge to the impartiality of a member of the approval authority, the remaining members shall decide the issue of participation. Such challenge shall be raised at the earliest possible opportunity.

- B. An affirmative vote by a majority of the members of the approval authority who are present and voting is required to approve an application or to amend, modify or reverse a decision or appeal.

- C. Notwithstanding subsections A and B of this Section, a member may vote upon a finding of necessity made by a majority of the Council present.

SECTION 2.210: RECORD OF PROCEEDINGS

- A. A verbatim record of the proceedings shall be made by stenographic or mechanical means. It shall not be necessary to transcribe testimony except as provided for in Section 2.290. The minutes or transcript of testimony, or other evidence of the proceedings, shall be part of the record.
- B. All exhibits received shall be marked so as to provide identification upon review.
- C. The official record shall include:
1. all materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceedings and recorded or considered by the approval authority as evidence;
  2. all materials submitted by the Director to the approval authority with respect to the application;
  3. the transcript of the hearing, if requested by the Council or a party or the minutes of the hearing, or other evidence of the proceedings before the hearings body;
  4. the written findings, conclusions, decision and, if any, conditions of approval, of the hearings body;
  5. argument by the parties or their legal representatives permitted pursuant to Section 2.280.B.3 at the time of review before the Council;
  6. all correspondence relating to the application; and
  7. a copy of the notice which was given pursuant to Section 2.110 and 2.120 of this Article, accompanying affidavits and list of persons who were sent mailed notice.

SECTION 2.220: THE EFFECTIVE DATE OF THE DECISION - EFFECT OF REVIEW

- A. Any decision made under the provisions of this Article by

the Director or Hearings Officer shall become effective immediately upon the date notice of the final decision is given, as provided in Section 2.120.B and 2.320.B of this Article, notwithstanding the filing of a Notice of Review pursuant to Section 2.250 of this Article, unless a stay of the decision is granted pursuant to Section 2.230 of this Article.

- B. Any decision made under the provisions of this Article by the City Council shall become effective immediately upon the date notice of the final decision is given, as provided in Section 2.120 of this Article; providing that a decision of the City Council on review, pursuant to Section 2.330 shall not become effective until the fifteenth day after the filing of the order with the Director pursuant to Section 2.080.F, unless a Petition for Reconsideration is filed pursuant to Section 2.340, in which case the order shall not become effective until such petition has been acted on by the Council.

SECTION 2.230: STAY OF DECISION BY DIRECTOR OR HEARINGS OFFICER

- A. Upon application of a party, the Council may grant a stay of a final decision made under the provisions of this Article by the Director or Hearings Officer, if review of such decisions has been initiated pursuant to Section 2.250.
- B. A stay shall be granted only upon a showing of:
  - 1. irreparable injury to the party seeking the stay; and
  - 2. a colorable claim of error in the decision of the Director or Hearings Officer, relating to compliance with the provisions of this Code or the City's Comprehensive Plan.

SECTION 2.240: ESTABLISHMENT OF PARTY STATUS - STANDING TO SEEK REVIEW

Any person shall be considered a party to a matter, thus having "standing" to seek review, pursuant to Section 2.250 to 2.340, if the reviewing authority finds:

- A. except for review of a decision by the Director pursuant to Section 2.060.A, that the person appeared before the approval authority either orally or in writing; and
- B. the person is a person entitled as a matter of right to notice of the decision to be reviewed, or is a person whose

interests are adversely affected or is a person who has been aggrieved by the decision.

SECTION 2.250: AUTHORITY TO REVIEW A FINAL DECISION

- A. Any final decision made by the Director on a development application as provided by Section 2.060.A may be reviewed by the Hearings Officer upon:
1. the filing of a Notice of Review by a party to the proceeding, as provided in Section 2.240, within seven (7) calendar days of the sending of the notice of the final decision; or
  2. the Council, on its own motion, ordering review by resolution filed within seven (7) calendar days of the sending of notice of the final decision.
- B. Any final decision made by the Hearings Officer pursuant to Section 2.060.B may be reviewed by the Council upon:
1. the filing of a Notice of Review by any party to the decision, as provided in Section 2.240, within seven (7) calendar days of sending of the notice of the final decision; or
  2. the Council, on its own motion, ordering review by resolution filed within seven (7) calendar days of the sending of notice of the final decision; or
  3. referral of a matter under Section 2.140.D by the initial hearings body to the Council, upon closure of the hearings, when the case presents a policy issue which requires Council deliberation and determination.

SECTION 2.260: NOTICE OF REVIEW

- A. The Notice of Review shall contain:
1. identification of the decision sought to be reviewed, and the development application with respect to which the decision was made;
  2. a statement as to how the petitioner qualifies as a party;
  3. the specific grounds for review; and



4. the date of the filing of the final decision on the action.
- B. The review application shall be accompanied by the required fee.
- C. The review shall be limited to the grounds listed under subsection A.3 of this Section.

SECTION 2.270: NOTICE GIVEN OF PUBLIC HEARING ON REVIEW

A. Persons Entitled to Notice

Notice of a public hearing on review shall be given by the Director as provided by Section 2.110.A of this Article.

B. Contents of Notice

Notice shall include those matters set forth in Section 2.110.B of this Article.

SECTION 2.280: TYPE OF REVIEW HEARING - SCOPE OF REVIEW

- A. The review of a decision made by the Director under Section 2.060.A and Section 2.100 of this Article shall be de novo and conducted as if brought under Section 2.060.B.
- B. The review of a decision of the Hearings Officer by the Council shall be:
  1. confined to the record of the proceedings as provided in Section 2.210 of this Article;
  2. limited to the grounds relied upon in the Notice of Review as provided in Section 2.260.A.3 of this Article, and conducted in accordance with the provisions of Section 2.110 and 2.140 through 2.210 of this Article; and
  3. the subject of written argument only, unless oral argument is specifically requested by the Council, such written argument to be submitted not less than five (5) days prior to Council consideration.

SECTION 2.290: TRANSCRIPTS

- A. In the case of review of a decision of the Hearings Officer, taken pursuant to Section 2.250.B, the petitioner for re-

view shall request that a transcript be made of the proceedings before the Hearings Officer. The Director shall estimate the cost, and the person making the request shall deposit the estimated cost with the Director within five (5) days of requesting the transcript, and any excess shall be returned. If the cost of the transcript be greater than the estimate, the petitioner shall pay such excess within ten (10) days of notice by the Director.

- B. Failure to pay the costs of the transcripts is jurisdictional and shall be grounds for dismissal of review.

SECTION 2.300: ACTION ON REVIEW - TIME LIMIT AND AUTHORITY TO CHANGE THE DECISION

- A. The approval authority shall act upon the review within sixty (60) days of filing unless such time limitation is extended with the consent of the parties; provided that, unless otherwise ordered by the hearings body or council, the Director shall take such appeals in the order in which they are filed; and
- B. The approval authority may affirm, reverse or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the provisions of Section 2.080 of this Article; or
- C. The approval authority may remand the matter if it is not satisfied that testimony or other evidence could not have been presented or was not available at the hearing. In deciding to remand the matter, the approval authority shall consider and make findings and conclusions respecting:
  - 1. the prejudice to parties;
  - 2. the convenience or availability of evidence at the time of the initial hearing;
  - 3. the surprise to opposing parties;
  - 4. the date notice was given to other parties as to an attempt to admit; and
  - 5. the competency, relevancy and materiality of the proposed testimony or other evidence.

SECTION 2.310: PARTICIPATION BY MEMBERS OF THE APPROVAL  
AUTHORITY IN THE DECISION AND VOTING ON REVIEW

- A. The provisions of Section 2.220 of this Article apply, and in addition:
  - 1. only those members who have reviewed the entire record shall vote; and
  - 2. a majority of the voting members of the approval authority must vote affirmatively to amend, reverse or remand the decision.
- B. Unless a decision be deferred, in the event of a tie, the decision which is the subject of a review shall stand.

SECTION 2.320: FINAL ACTION OF THE HEARINGS OFFICER ON REVIEW -  
NOTICE

- A. A decision of the Hearings Officer on review, known as a "final order", shall be filed with the Director, the Building Official and the City Recorder pursuant to Section 2.080, and shall be final from the date of filing unless review is sought as provided in Section 2.250.B.
- B. Upon filing of the Hearings Officer's decision with the Director, the Director shall give notice of the decisions as provided in Section 2.120.

SECTION 2.330: FINAL ACTION OF THE CITY COUNCIL ON REVIEW -  
NOTICE

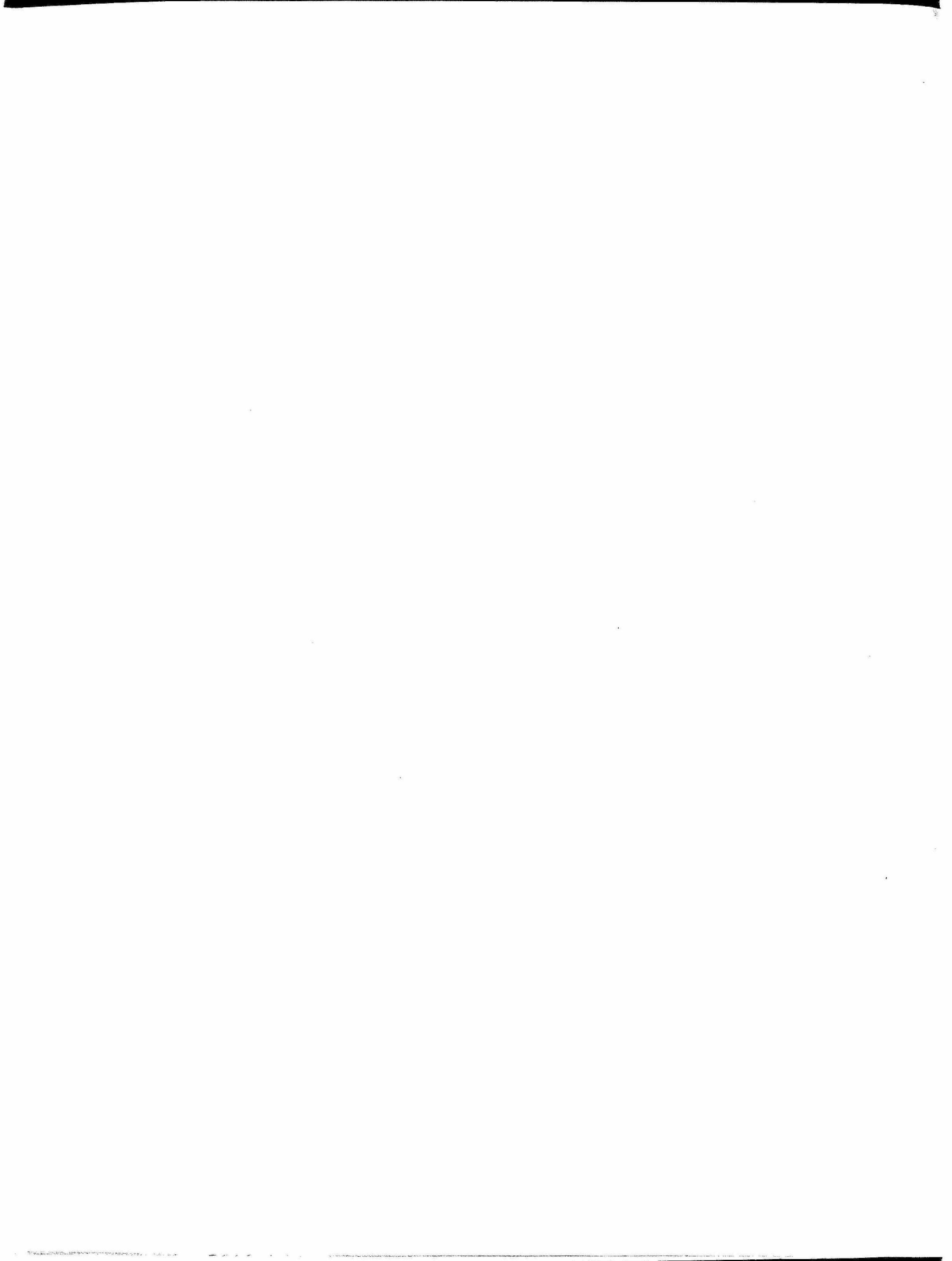
- A. A decision by the City Council on review, known as a "final order", shall be final from the date of filing unless:
  - 1. a party to the review files a Petition for Reconsideration with the Director within fourteen (14) days of the sending of the notice of the decision pursuant to Section 2.120; or
  - 2. the Council, on its own motion, orders reconsideration within the period specified in paragraph 1 of this subsection.
- B. Upon filing of the City Council's decision with the Director, the Director shall give notice of the decision is provided in Section 2.120.

SECTION 2.340: PETITION FOR RECONSIDERATION BY CITY COUNCIL

- A. A final order of the Council on review shall be stayed upon the filing of a Petition for Reconsideration within fourteen (14) days of the sending of notice of the Council's decision pursuant to Section 2.330.B.
- B. A Petition for Reconsideration shall contain the matters set forth in Section 2.260.A. No fee need accompany such petition.
- C. The Council shall decide whether to grant such a petition at its next practicable regular or special meeting.
  - 1. If the petition is granted reconsideration shall be conducted as provided in Sections 2.280.B, 2.300, 2.310 and 2.330.B. A decision on reconsideration is final and effective when filed pursuant to Section 2.080.F. No decision of the City Council may be re-considered more than once.
  - 2. If the petition is denied, notice of the denial shall be given by the Director as provided in Section 2.120.
- D. No person failing to file such Petition for Reconsideration shall be deemed to have exhausted available administrative remedies. It is the purpose of this Article to provide parties every remedy possible, prior to litigation. To that end, the filing of a Petition for Reconsideration is a condition precedent for further administrative or judicial review.
- E. No time period for challenging a Council decision on review shall commence until the Council has issued a final order disposing of the Petition for Reconsideration.

Article Three: ZONING REGULATIONS





ARTICLE THREE

ZONING REGULATIONS

SECTION 3.010: ZONING DISTRICTS

All areas within the corporate limits of the City of Rajneeshpuram are hereby divided into zoning districts. These districts shall be as follows:

- A. Residential (R)
- B. Community Services (CS)
- C. Commercial (C)
- D. Industrial (I)
- E. Park (P)
- F. Park and Camping (PC)
- G. Park, Recreation and Camping (PRC)
- H. Open Space (OS)

A. RESIDENTIAL ZONING DISTRICT (R)

In the R zoning district the following uses and their accessory structures and uses are permitted outright, subject to all applicable provisions of this Code:

- A. residences of all types except hotels and motels;
- B. home occupations;
- C. community cafeterias;
- D. television and video rooms;
- E. telephone communications centers;
- F. nurseries and child care centers;
- G. utility facilities and services except electric substations, sewage lagoons and sanitary landfills;
- H. mobile home parks;
- I. parks and playgrounds;
- J. labor camping housing; and
- K. neighborhood commercial uses and related structures, provided such structures are not in excess of 2,000 square feet.

B. COMMUNITY SERVICES ZONING DISTRICT (CS)

In the CS zoning district the following uses and their accessory structures and uses are permitted outright, subject to all applicable provisions of this Code:

- A. development as permitted in the R district except that residences shall be allowed only in conjunction with uses permitted in the CS zone, and for other residences only on land unsuitable for larger community services buildings;
- B. religious facilities such as meditation halls, meeting halls and churches;
- C. recreation facilities, including but not limited to community centers with eating facilities, libraries, lounges, music and dance studios, theaters and related commercial uses;
- D. mental and physical health care facilities;
- E. educational facilities including ancillary commercial uses and housing;
- F. governmental facilities;
- G. cemeteries;
- H. public safety services, including fire stations, police stations, ambulance services and related storage and maintenance facilities;
- I. administrative and professional offices and services;
- J. personal use airports for airplanes and helicopter pads, including associated hangars, maintenance and service facilities; and
- K. commercial uses and related structures provided such structures are not in excess of 2,000 square feet.

C. COMMERCIAL ZONING DISTRICT (C)

In the C zoning district the following uses and their accessory structures and uses are permitted outright, subject to all applicable provisions of this Code:



- A. development as permitted in the CS district, except that residences other than those located over commercial ground floor space shall not occupy more than 10% of the buildable land in a DPA zoned C;
- B. commercial uses and related structures.

D. INDUSTRIAL ZONING DISTRICT (I)

In the I zoning district the following uses and their accessory structures and uses are permitted outright, subject to all applicable provisions of this Code:

- A. industrial uses;
- B. warehousing and yard storage;
- C. commercial uses and structures that serve industrial uses;
- D. residences; provided, however, that not more than 10% of the buildable land in a DPA zoned I shall be used for residences;
- E. utility facilities and services.

Limited Use

Temporary placement of mobile units is permitted in I zones for a duration of not more than one year provided that placement of units in no way implies any rights to retain mobile units on property beyond the period granted by the conditional use. Such temporary use should in no way preclude future development or the provision of public services to the area.

E. PARK ZONING DISTRICT (P)

In the P zoning district the following uses and their accessory structures and uses are permitted outright, subject to all applicable provisions of this Code:

- A. fish and wildlife management;
- B. parks and playgrounds;
- C. water management programs and facilities;
- D. environmental education facilities;

- E. farm uses;
- F. recreational commercial uses such as snack bars, refreshment stands and souvenir shops;
- G. sanitary facilities;
- H. utility facilities and services, except electrical substations, sewage lagoons and sanitary landfills;
- I. outdoor recreation facilities and structures.

F. PARK AND CAMPING ZONING DISTRICT (PC)

In the PC zoning district the following uses and their accessory structures and uses are permitted outright, subject to all applicable provisions of this Code:

- A. all uses permitted in the P district;
- B. campgrounds;
- C. visitor information and reception facilities;
- D. recreational vehicle parks;
- E. fairground facilities including accessory commercial facilities;
- F. cabins, not exceeding 400 square feet in size;
- G. recreation rooms, snack bars, laundry facilities and other ancillary uses.

G. PARK, RECREATION AND CAMPING ZONING DISTRICT (PRC)

In the PRC zoning district the following uses and their accessory structures and uses are permitted outright, subject to all applicable provisions of this Code:

- A. all uses permitted in the PC district;
- B. indoor recreation facilities and structures;
- C. exposition halls and buildings;
- D. commercial uses ancillary to the above.

#### H. OPEN SPACE ZONING DISTRICT (OS)

In the OS zoning district the following uses and their accessory structures and uses are permitted outright, subject to all applicable provisions of this Code:

- A. natural resource conservation and management and related facilities;
- B. parks and playgrounds;
- C. utility facilities and services including corridors and rights of way for fire control and security;
- D. natural resource exploration and development.

#### SECTION 3.020: ZONING MAPS

The location and boundaries of the classifications enumerated in Section 3.010 are hereby established as shown on a map or maps entitled "City of Rajneeshpuram Official Zoning Map." These maps and any amendments thereto shall be maintained on file in the office of the Director and are hereby incorporated into this Code by reference.

#### SECTION 3.030: INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to any district boundaries as shown on the Rajneeshpuram Zoning Maps, the boundaries of said districts shall be determined by use of the scale contained on the Maps.

#### SECTION 3.040: SIMILAR USES

The Director may permit in any district a use not listed in this Code if the requested use is of the same general type and level as those uses otherwise permitted within the district. The decision of the Director may be reviewed by the Council, pursuant to Article 2.250.A.

#### SECTION 3.050: VARIANCE

##### A. Authorization to Grant Variances

A variance shall be granted from the requirements of this Code upon a showing that, because of special or unusual

circumstances relating to a specific piece of property, the literal interpretation of this Code would cause an undue or unnecessary hardship. However, no variance shall be granted to allow the permanent use of property for purposes not allowed within the zone in which the proposed use would be located. In granting a variance, conditions may be imposed when deemed necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this Code.

#### B. Criteria for Granting a Variance

A variance shall be granted by the Director pursuant to Article 2 with respect to any quantitative or dimensional requirement of this Code only if, on the basis of the application and evidence submitted, all of the following circumstances are found to exist:

1. the circumstances of any hardship are not of the applicant's making;
2. the variance is necessary for the preservation of a property right of the applicant which is the same as that enjoyed by other property owners in the same district;
3. granting of the variance will conform with the purposes of this Code and will not be materially injurious to other property in the vicinity;
4. special circumstances or conditions apply to the property or to the intended use that do not apply to other property in the same vicinity.

#### C. Application for a Variance

A property owner may initiate a request for a variance by filing an application with the Director pursuant to Section 2.030 of this Code.

#### D. Time Limit on a Variance

Authorization of a variance shall be void after one year unless substantial construction pursuant thereto has taken place. However, the City Council may extend authorization for a period not to exceed an additional year, in the same manner as the original application.

SECTION 3.060: TEMPORARY USE PERMIT

A. Purpose

A temporary use permit shall be approved to allow the limited use of structures or activities which are temporary or seasonal in nature and do not conflict with the zoning districts in which they are located, upon a showing of compliance with the terms of this Article. However, no temporary use permit shall be issued which would have the effect of permanently rezoning or granting a permanent special privilege not shared by other properties in the same district.

B. Permitted Temporary Uses

Upon a showing of conformance with the criteria set forth in subsection C of this Section, a temporary permit shall be granted as an administrative action pursuant to Article Two, authorizing temporary structures, activities and uses as necessary to provide for housing for personnel; storage and use of supplies and equipment; or to provide for temporary sales offices for uses permitted in the underlying district. Other uses may include campgrounds, roadside stands or other uses not so recurrent as to require a specific or general regulation to control them. Temporary uses shall not be subject to Concept Plan Review pursuant to Article Four of this Code.

C. Criteria for Decision

No temporary permits shall be issued except upon a finding that the proposed structure, activity or use would not permit the permanent establishment of any use which is not permitted within the underlying district, and that all applicable requirements of the district and Article Six of this Code are met.

D. Conditions Relative to the Issuance of Temporary Permits

1. Reasonable conditions may be imposed by the Director in connection with the temporary permit to assure compliance with the terms of this Code. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include but are not limited to:
  - a. special yards and spaces;
  - b. fences or walls;

- c. control of points of vehicular ingress and egress;
  - d. special provisions on signs;
  - e. landscaping and maintenance thereof;
  - f. maintenance of the grounds;
  - g. control of noise, odors or other nuisances;
  - h. limitation of time for certain activities.
2. Any temporary permit shall clearly set forth the conditions under which the permit is granted and shall clearly indicate the time period for which the permit is issued. No temporary permit shall be transferable to any other owner or occupant, but may be renewed by the Director in accordance with this Article.
  3. All structures for which a temporary permit is issued shall be removed upon expiration of the temporary permit unless renewed by the Director or used in conjunction with a permitted use.

#### E. Issuance of Permits

1. Temporary permits shall be issued for the time period specified by the Director but may be renewable upon expiration by the Director if all applicable conditions can again be met. In no case shall a temporary permit be issued for a period exceeding one year, nor renewed for a period exceeding one additional year.
2. Renewal of a temporary permit shall follow the same procedure as the initial application.

### SECTION 3.070: NON-CONFORMING USE

#### A. Continuation of a Non-Conforming Development

A non-conforming development or use may continue and be maintained or repaired but shall be changed while continuing to be non-conforming only as authorized by this Article.

1. Alteration and extension of a development that is non-conforming because of a failure to comply with a requirement of this Code shall be authorized by the Director upon a showing that the alteration or extension will not increase the degree of non-compliance.
2. If destroyed, a non-conforming use or structure can be replaced to the extent of its non-conforming status.

B. Completion of a Non-Conforming Development

A development that is lawfully under construction on the date this Code is adopted may be completed even though not in compliance with this Code and may be used for the purpose for which it was designed, arranged and intended. The development and its use are then non-conforming.

C. Termination of a Non-Conforming Development

A non-conforming development or use shall terminate when the use has been discontinued for twenty-four (24) consecutive months.

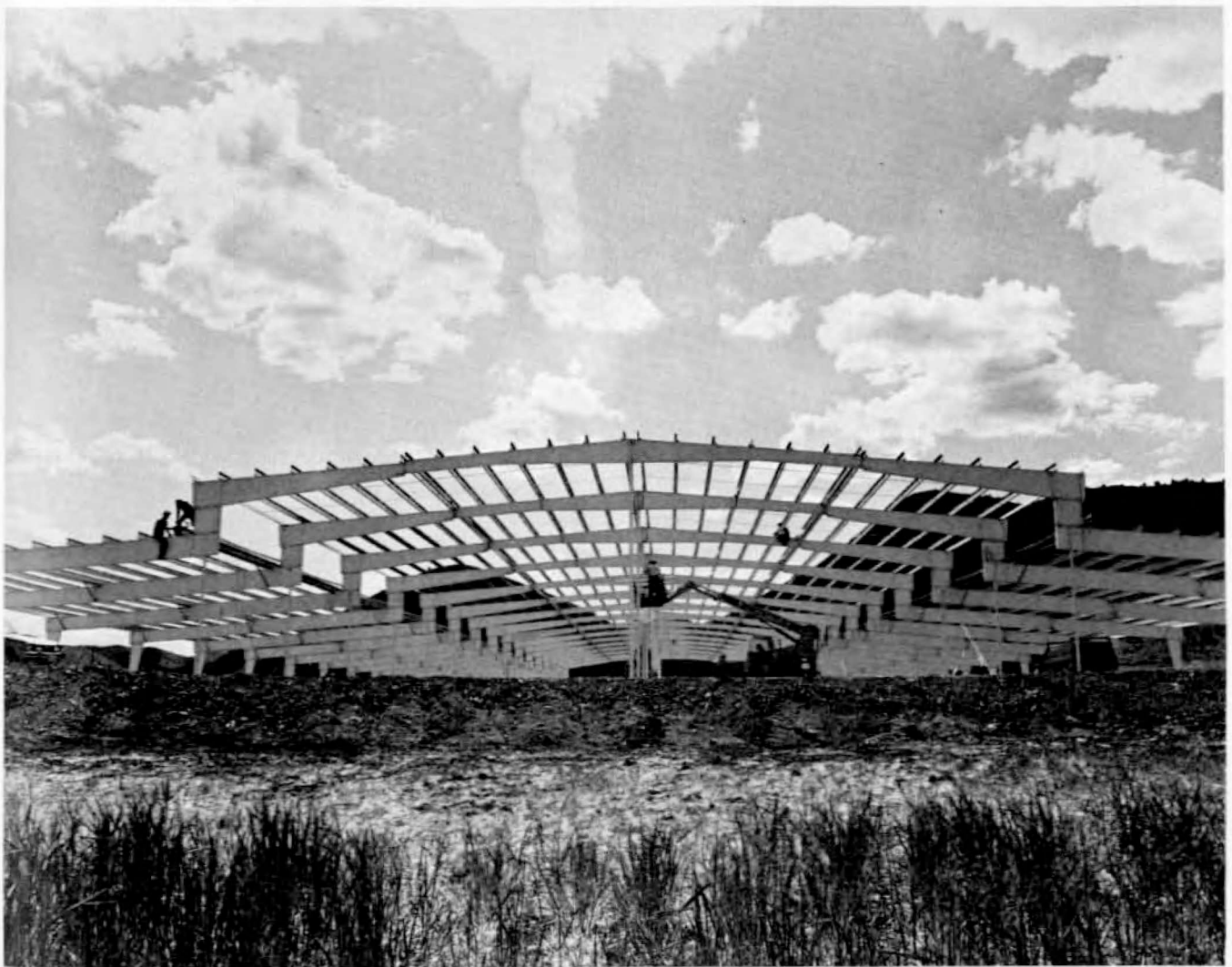
SECTION 3.080: ZONING OF ANNEXED TERRITORY

Territory annexed to the City shall remain subject to the land development classifications of the county until changed by the City. Such changes may be carried out in conjunction with the annexation proceedings pursuant to the requirements of this Code. Within thirty (30) days after the effective date of annexation, the Director shall report on any further steps that appear necessary to fully subject the annexed territory to the provisions of this Code, including, where necessary, a recommendation on the final reclassification, and shall initiate appropriate action to have those steps carried out. If the Council finds it is important to the protection or implementation of City policies, interim regulations may be applied in the annexed area until more permanent action can be taken.





Article Four: CONCEPT PLAN





ARTICLE FOUR

CONCEPT PLAN

SECTION 4.010: PURPOSE

The purpose of this Article is to establish procedures and criteria for the review of Concept Plans. Concept Plans are a means of applying the generalized policies of the City's Comprehensive Plan to the specific site characteristics of a Designated Planning Area (DPA). Concept Plans must be approved for each DPA in order to allow for detailed facilities planning.

SECTION 4.020: PROCEDURE

- A. A Concept Plan shall include all land within a Designated Planning Area.
- B. Pursuant to Section 2.060.A of this Code, applications for Concept Plan approval are subject to review by the Director as provided in Section 2.100 of this Code.
- C. Except as provided in Section 4.060 of this Article, a Concept Plan for a DPA shall be approved by the Director under Sections 2.060 and 4.040 prior to the issuance of any building permit or commencement of any development within that DPA.

SECTION 4.030: CONCEPT PLAN CONTENT

A Concept Plan shall contain the following information, in graphic or written form, in sufficient detail to enable the Director to determine the compliance of the Concept Plan with the applicable criteria as provided in Section 4.040:

- A. the boundaries and designation of the DPA, as shown on the Land Use Plan Map of the City's Comprehensive Plan;
- B. the zoning district of the DPA, as shown on the City's Official Zoning Map;
- C. existing topography of the DPA, showing contour intervals at five (5) feet;
- D. the location and size of major transportation, water, sewer and other public facilities of the type shown on

the Master Services Alignment Map, including, but not limited to, arterial roads, collector roads, sewer and water trunk lines;

- E. proposed connections of major public facilities within the DPA to main roads or trunk lines outside the DPA;
- F. the location of developable and non-buildable land within the DPA, based on the standards set forth in the Comprehensive Plan and this Code, including the identification of:
  - 1. unique natural features;
  - 2. mineral and aggregate sites;
  - 3. water resources;
  - 4. major stream corridors;
  - 5. natural hazard areas (including excessive slopes, flood hazard areas, landslide areas, etc.);
  - 6. significant plant/animal habitat;
  - 7. cultural and historical resources;
- G. the identification of drainage pattern(s) including major features such as intermittent or seasonal streams;
- H. existing building(s) within the DPA;
- I. if for a residential DPA, the density (in dwelling units/buildable acre) at which residential development will be allowed to occur in all or various parts of the DPA.

SECTION 4.040: CRITERIA FOR APPROVAL OF CONCEPT PLAN

- A. Except as provided in subsection B of this Section, the Director shall approve a Concept Plan application as a matter of right upon finding that the Concept Plan is:
  - 1. consistent with applicable policies and designations of the City's Comprehensive Plan;
  - 2. consistent with applicable provisions of this Code;  
and

3. compatible with previously approved Concept Plans for adjacent DPAs.
- B. If a Concept Plan is for a DPA designated as Residential by the Comprehensive Plan, the developer shall include the density ranges by area in future residential development in that DPA as being either 3-5 (low), 6-10 (medium) or 11-20 (high) dwelling units per buildable acre.

In making this determination the developer shall consider:

1. site conditions within the DPA;
  2. capacities of public facilities and services to be provided to the DPA; and
  3. the attainment of an overall residential density in the DPA of at least four (4) dwelling units per net acre of residentially designated land.
- C. The Concept Plan shall ensure that the amount of land specified in the plan as buildable shall be made available for development. The developer shall work with the Director in determining the precise boundary based on the following criteria:
1. the location of roads, water and sewer services;
  2. natural features including river and stream beds, and contour lines.

#### SECTION 4.050: AMENDMENTS TO APPROVED CONCEPT PLAN

Any amendment to an approved Concept Plan shall be applied for and reviewed as set forth in this Article for a new application for Concept Plan approval.

#### SECTION 4.060: EXCEPTIONS

A Concept Plan shall not be required for the following:

- A. farm use, as defined in Article One, including buildings and structures thereto;
- B. fish and wildlife management as defined in Article One;
- C. installation or construction of a structure that does not substantially alter the appearance of the land and does not require a building permit under the Uniform Building Code.

- D. fences less than six (6) feet in height;
- E. the construction, reconstruction, alteration or maintenance of a street or highway by a government agency or its agent;
- F. the expansion of capacity or the replacement of existing communication or energy distribution and transmission systems;
- G. tents, travel trailers, office trailers and other portable units that do not require new installation of community water systems or sewer systems or construction of a new road;
- H. the establishment, construction or termination of an authorized public facility that directly serves development, including such facilities as a private or public street, sewer, water line, electric power or gas distribution line, or telephone or television cable system;
- I. installation or construction of an accessory structure that does not require new installation of community water systems or sewer systems or construction of a new road, and is accessory to a pre-existing use;
- J. a building of less than 10 x 12 feet, if it is not served by sewage disposal or water services and is used primarily for the storage of materials or equipment;
- K. an emergency measure necessary for the safety or protection of property;
- L. all development in the OS zone.

Article Five: SITE PLAN







## ARTICLE FIVE

### SITE PLAN

#### SECTION 5.010: PURPOSE

The purpose of this Article is to establish procedures for the review of site plans and building permit applications to ensure consistency with an approved Concept Plan, the requirements of this Code and to promote functional, safe, efficient, economical and attractive development compatible with the natural and man-made environment.

#### SECTION 5.020: PROCEDURE

- A. Prior to approval for zoning compliance and prior to the commencement of any development, except as provided in Section 5.050, a site plan and building permit application consistent with the provisions of this Article shall be submitted to the Director.
- B. Pursuant to section 2.060.A of this Code, the Director shall review the site plan and building permit application as provided in Section 2.100 of this Code.

#### SECTION 5.030: SITE PLAN CONTENT

- A. The site plan shall encompass all land within 250 feet of any structure or structures for which building permit approval is sought.
- B. The site plan shall contain the following information in sufficient detail to indicate the nature of the request and enable the Director to determine that the proposed development is consistent with the applicable criteria as provided in Section 5.040:
  - 1. proposed land uses and residential densities;
  - 2. existing and proposed building types and locations, including overall exterior dimensions and distances between structures;
  - 3. means of vehicular and pedestrian access, circulation and parking within and adjacent to the site;

4. location of the nearest arterial or collector road serving the site;
  5. location of other existing and proposed roads, walkways and bikeways serving the site;
  6. location of existing and proposed parks and open spaces;
  7. location and size of sewer mains, collectors and service lines, and septic tanks serving the proposed building or buildings;
  8. location and size of water mains, distribution and service lines serving the proposed building or buildings;
  9. location of fire hydrants;
  10. location of electrical distribution and service lines;
  11. location of telephone lines;
  12. location of existing and proposed utility rights of way and easements;
  13. existing topography of the site at five (5) foot contour intervals;
  14. location of water courses (perennial and intermittent), individual trees of over six inches dbh, and significant natural features;
  15. other elements, improvements, dimensions or characteristics pertaining to the subject property or adjacent lands or improvements which are deemed by the Director to be necessary to the evaluation of the site plan.
- C. The applicant will be required to install public facilities and services consistent with the site plan and any approved Concept Plan and to ensure that adequate supply and treatment capacities will be available prior to occupancy or use of the development.

SECTION 5.040: CRITERIA FOR APPROVAL OF SITE PLAN AND BUILDING PERMIT

The Director shall approve a site plan and building permit application as a matter of right upon finding that the application and site plan:

- A. are consistent with the development standards of Article Six of this Code;
- B. are consistent with any approved Concept Plan(s) for the DPA(s) in which the proposed development is located; and
- C. incorporate any conditions or modifications deemed necessary by the Director to satisfy the elements, purposes or standards of the Comprehensive Plan or this Code.

SECTION 5.050: EXCEPTIONS

A site plan shall not be required for the following:

- A. farm use, as defined in Article One, including buildings and structures thereto;
- B. fish and wildlife management as defined in Article One;
- C. installation or construction of a structure that does not require a building permit under the Uniform Building Code;
- D. fences less than six feet in height;
- E. the construction, reconstruction, alteration or maintenance of a street or highway by a government agency or its agent;
- F. the expansion of capacity or the replacement of existing communication or energy distribution and transmission systems;
- G. tents, travel trailers and other portable units that do not require new installation of community water systems or sewer systems or construction of a new road;
- H. the establishment, construction or termination of an authorized public facility that directly serves development, including such facilities as a private or public

street, sewer, water line, electric power or gas distribution line, or telephone or television cable system;

- I. installation or construction of an accessory structure that does not require new installation of sewage disposal or water service, or construction of a new road, and is accessory to a pre-existing use;
- J. a building of less than 10 x 12 feet if it is not served by sewage disposal or water services and is used primarily for the storage of materials or equipment;
- K. an emergency measure necessary for the safety or protection of property.

SECTION 5.060: AMENDMENTS TO SITE PLANS

A minor amendment to a site plan and building permit may be approved ministerially by the Director. A minor amendment means a change which:

- A. does not change any existing or proposed use;
- B. does not change the general location or amount of land devoted to a specific land use; and
- C. includes only minor shifting of the location of buildings, proposed public or private streets, pedestrian ways, utility easements, or common, public or private open spaces.

Article Six: DEVELOPMENT STANDARDS





ARTICLE SIX

DEVELOPMENT STANDARDS

SECTION 6.010: PURPOSE

The purpose of this Article is to ensure the safety, convenience, efficiency, health and welfare of the public through the application of standards for the development improvements required to implement the City of Rajneeshpuram Comprehensive Plan.

SECTION 6.020: APPLICATION OF STANDARDS BY DISTRICT

- A. "A" areas are I, C and CS zoning districts.
- B. "B" areas are R, P, PC and PRC zoning districts.
- C. "C" areas are OS zoning districts.

SECTION 6.030: FACILITIES

A. Definitions

Sanitary Sewer System

A system consisting of pipes, house service lines extending to a point five feet from each structure being served, manholes, cleanouts, and other appurtenant structures provided for the conveyance of sewage to a place of treatment and including the treatment facility and the system of conveyance to the disposal area.

Water Distribution System

A system consisting of pumps, reservoirs, underground pipes, monitoring and control systems, house service lines extending to a water meter at each structure or to a point five feet from each structure being served, valves, hydrants, and other appurtenant structures provided for the transmission of potable water to its point of use.

### Capacity

The effective ability of a pipe as it is or would be placed to carry the substance being transmitted by that system, expressed in gallons per minute (gpm). For wells, it is expressed in gpm based on a 48-hour draw-down test, testing maximum pumping rate with stabilized drawdown. For reservoirs, it is the volume of tank or holding structure when full. For sand filtration sewage treatment units, it is expressed in gallons per day per square foot of sand filter surface area. For lagoon systems, capacity is a measure of average daily flow (gallons per day) based on winter disposal or storage limitations.

### Grade

The slope, measured in percent, of a pipe as a gravity conduit as part of a utility system.

### Cleanout

A vertical opening providing equipment access to the end of, or bend in, a sanitary sewer line for purposes of flushing or cleaning the line.

### Backfill

The material placed in a trench or excavation around and over a sewer or water pipe or other utility structure to bring the trench or excavation to ground level.

### Service Lateral

A sewer pipe extending from a sewer main to a point 5' from the structure to be served.

### Plan

An overhead view of the location of existing or proposed utility pipelines and facilities and components thereof as appropriate.

### Profile

A "sideview" of existing or proposed utility pipe or street showing grade, changes in grade, depth of pipe and location of manholes, cleanouts, and any pump



stations, and drawn to exaggerated vertical scale to show the grade appropriately.

### Standpipe System

An arrangement of piping valves and hose connections to allow the pumping into and use of hose streams by fire companies.

## B. General Provisions

### 1. Approval Required

All plans or other data relevant to the provision or construction of any improvements identified in Sections 6.030 through 6.070 shall be approved as being in compliance with the requirements of the Development Code by an engineer licensed to practice in the State of Oregon.

### 2. Basic Utilities Required

The following utilities shall be the minimum permanent utilities provided to development in the City, by "area" as defined in Section 6.020, in accordance with City standards:

- a. central sanitary sewer systems ("A", "B" areas);
- b. central water distribution systems ("A", "B" areas);
- c. electric service ("A", "B" and "C" areas);
- d. telephone ("A" areas).

### 3. Cost of Improvements

The cost of all such improvements necessitated by a proposed development, including the connection to, or provision of, the nearest appropriate main line shown in this plan as well as the cost of upgrading the treatment, storage or other key facilities of the system should such upgrading be required as a result of the proposed development, shall be borne by the developer.

#### 4. Utility Easements

- a. Utility construction or repair within easements shall minimize disturbance to the site and neighboring properties, including trees and other vegetation.
- b. Utility easement widths shall be of the widths necessary to facilitate utility installation and maintenance as required by the utility provider but will be at least 5' in width if independent from street right of way.
- c. Utilities, where possible, will be located within or immediately adjacent to street rights of way so as to avoid as much as possible disturbance to existing or proposed parking areas, driveways, walkways, bicycle paths or concrete pads.
- d. Utility easements will be dedicated to the public for those portions of the central sewage and water systems for which the City has assumed responsibility.
- e. Sewer and water mains shall be at least 10' apart or as required by the State Department of Health.
- f. Underground electric or telephone lines may be buried in the same trench as the sewer or water lines provided, however, that such lines shall be placed beneath the sewer or water pipe.
- g. Any disturbed areas within easements shall be restored to the maximum extent possible.

#### 5. Developer Responsible to Arrange for Utilities

- a. The developer shall make all necessary arrangements with local and state agencies, utility companies or other persons or corporations affected for the installation of such lines and facilities.
- b. All such facilities as described in this Section shall be constructed and maintained in compliance with the applicable rules and regulations of the State Departments of Health, Environmental Quality and Commerce, and the State Public Uti-

lity Commissioner and in accordance with engineering specifications as provided by an Oregon registered professional engineer.

### C. Sanitary Sewers

#### 1. Sewers and Connections Required

Sanitary sewers shall be provided to serve all development and to connect such development to existing mains except that on-site sewage disposal facilities including detached communal toilet and shower and related water facilities may be permitted upon a finding that:

- a. such facilities comply with applicable state and local environmental statutes, regulations and ordinances;
- b. such facilities will not preclude the orderly economic provision of sanitary services at some future date; and
- c. the structure shall be connected to sanitary sewer lines once such services become reasonably reliable to the site.

#### 2. Capacity of Sewers

The capacity of proposed sewers shall be adequate to accommodate the anticipated flow.

#### 3. Provision for Future Expansion Required

Design shall take into account the capacity, location and grade necessary to accommodate projected future expansion beyond the development in accordance with the Comprehensive Plan.

#### 4. Pipe

- a. Pipe may be plastic or ductile iron as approved by the Department of Environmental Quality.
- b. Sewer main lines will be a minimum of 6" to minimize blockage and to facilitate cleaning or DEQ standards, whichever is greater.

- c. Minimum grade will be .005' per foot for gravity lines containing effluent only and .021' per foot for gravity lines containing solids.

#### 5. Cleanouts

- a. Cleanouts will be provided at the temporary or permanent end of main lines, within 20' of the "out" end of all septic tank discharging into the central sewage systems and along the collector and main lines at such locations so that no portion of the main or collector lines is more than 500' from any cleanout as measured along the pipe.
- b. Cleanouts shall be a minimum of 4" in diameter and may be larger if specified by a registered professional engineer.
- c. Cleanout caps will be designed to prevent the escape of noxious odors.
- d. Cleanout caps will be flush mounted when occurring in streets, sidewalks, bikeways, parking areas or other concrete or asphalt pads and will extend 6" to 12" above ground level where occurring in earthen areas not subject to vehicular traffic.

#### 6. Backfill

- a. Native backfill should be used where possible.
- b. Pipe zone material shall be chosen and compacted to prevent settlement or damage from vehicular traffic.
- c. Backfill above sewer pipe should include a detectable marker tape located above all sewer pipes and not more than 18" below ground level.
- d. All sewer pipelines and related facilities shall be surveyed and copies of such surveys provided to the Director.

#### D. Water Systems

1. Potable water systems shall be provided to serve each structure which requires such water service and will

be connected to the City mains, except that on-site water service including individual or community wells and detached communal shower, toilet and related water facilities may be permitted upon a finding that:

- a. such facilities comply with applicable state and local environmental statutes, regulations or ordinances;
  - b. such facilities will not preclude the orderly and economic provision of sanitary services at some future date; and
  - c. the construction shall be connected to the City water mains once such service is reasonably available to the site.
2. Water shall be supplied of a quality which meets or exceeds appropriate State Health Department standards.
  3. Water shall be supplied and maintained at a minimum of 25 p.s.i.
  4. The capacity of the water system main lines shall be sized to accommodate the flow at a maximum velocity of 5 ft./sec. or the following considerations, whichever applies:
    - a. the expected peak flow of the structures to be connected to the proposed mainline based on Department of Commerce estimates of fixture requirements if known, or based on DEQ estimates of effluent per day by types of building use; or
    - b. the total of the above plus an estimate by the Director of the requirements of future development beyond the proposed development which will share the capacity of the main line; or
    - c. the projected fire protection requirement of areas of future development beyond the proposed development which will share the proposed main line.
  5. Water storage facilities shall have a minimum capacity of 48 hours of water usage based on 80 gallons per person per day for the area each such facility serves.

6. Potable water sources should be located and tested to provide for a proven, available flow measured in gallons per day which is at least twice the daily usage of the existing population at any time.
7. Design shall take into account the capacity and location of future development as reflected in the Comprehensive Plan to allow for continuity, preferable routing and common pipe sizing.
8. Pipe shall meet the following standards:
  - a. pipe may be plastic or metal as approved by the State Health Department;
  - b. shut-off valves will be provided in the water main lines at points specified by the designing engineer;
  - c. where possible, water systems should be "looped" to provide water from another direction should one route be shut off.
9. Fire protection devices shall meet the following standards:
  - a. hydrants conforming to AWWA standards shall be installed within 500' of any occupied structure or its standpipe connection in "A" or "B" areas;
  - b. occupied structures further than 200' from the nearest road or parking area shall have a standpipe system with its connection accessible to fire apparatus and a discharge connection within 100' of the structure;
  - c. standpipe systems shall be a minimum of 3" pipe rated at 200 p.s.i.;
  - d. sprinkler systems shall be installed in buildings as required by state code.
10. For purposes of water conservation:
  - a. the use of water-saving shower heads and toilets shall be encouraged throughout the City;
  - b. generally, potable water shall be derived from groundwater sources where feasible and irriga-

tion water shall be derived from surface water or recycled wastewater consistent with DEQ and Department of Health requirements.

11. Chlorination, filtration or other approved water treatment methods shall be provided when potable water sources are other than groundwater or when groundwater resources need to be treated to meet Department of Health standards.
12. Pipelines:
  - a. will be constructed according to Oregon registered professional engineer specifications, if applicable, and otherwise in accordance with standard engineering practices;
  - b. will be backfilled with approved backfill material to protect pipe, especially plastic pipe, from abrasion from movement. Native backfill materials should be used whenever possible;
  - c. shall be thrust-blocked at angles and ends according to engineering specifications and standard engineering practices;
  - d. backfill above water pipes should include a detectable marker tape located above all water pipes and not more than 18" below ground level.
  - e. all water pipelines and related facilities shall be surveyed and copies of such surveys provided to the Director.
13. Service lines shall meet the following standards:
  - a. each structure which requires potable water will be connected to the City water main lines either directly or through distribution pipes except as provided in part D of this Section. Accessory use buildings or connected or common-wall buildings, if owned by a single owner, may be connected to the City mains by a single service line;
  - b. each service line will terminate within 5' of the structure to be serviced, if possible, with a totalizing water meter. This water meter will demarcate the central water system from the

structure's individual plumbing as well as provide valuable water use data.

14. Monitoring shall be done as follows:

- a. water meters for all structures will be read quarterly and recorded;
- b. static levels of all wells connected to the central water system shall be determined monthly and the results recorded;
- c. water quality will be tested at a frequency required by the State Health Department.

E. Telephone Systems

Telephone lines to new development should be placed underground whenever practicable.

SECTION 6.040: STORM WATER DRAINAGE

A. Definitions

Sedimentation

Deposition of soils, debris or other materials suspended and transported by storm water runoff.

Storm Water Runoff

Water that results from precipitation which is not absorbed by the soil or plant material.

Stream

A natural body of running water flowing continuously or intermittently in a channel above the surface of the ground.

Water Conveyance Capacity

The capacity of a watercourse to convey a particular volume of water per unit of time at a particular water surface elevation at any particular point on the watercourse.



### Watercourse

A natural or artificial channel which conveys storm water runoff.

### By-Pass

A drainage system to carry storm water runoff around or through a specific area.

### Drainage

A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping.

### Drainage Pattern

This term refers to the way that storm water runoff flows over the land and includes streams, ditches, swales and sheet runoff.

### Drainage System

The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and the man-made element which includes culverts, ditches, channels and the storm sewer system.

## B. Culverts

1. All roads or other fills extending across a watercourse shall be provided with one or more culverts.
2. All roads or other fills extending across a watercourse shall be compacted. Further, such fills shall be rip-rapped on the upstream side to the height of water which would back up during a 20-year storm runoff.
3. Culverts shall be sized to accommodate a 20-year storm runoff based on the data provided in the Storm Water Drainage chapter in Volume 1 of this Plan, except that certain culverts may be downsized if an Oregon registered professional engineer determines that any hazard to life or property likely to stem from such a reduction in capacity would be minimal.

4. Fills containing culverts larger than 48" in diameter shall be constructed with at least a 12" dip at least 8' measured horizontally away from the culvert to allow the runoff of a storm larger than a 20-year storm to overtop the culvert in a controlled manner. An Oregon registered professional engineer may, however, specify a culvert with a capacity of a greater than 20-year storm runoff in the event that such overtopping at a particular location would cause interruption of services to a severe degree or if pipelines, electric lines, etc. are located in such a fill.
5. In no case shall culverts of a diameter less than 15" be installed.

#### C. Surface Runoff

1. Entryways to all residences, offices, community facilities and public entries into commercial buildings shall be constructed in such a manner as to provide ingress without passing through roof runoff or be provided with gutters to accomplish the same purpose.
2. Roads in "A" and "B" areas shall be crowned and ditched to allow guttering of storm water at or near roadsides. Culverts shall be installed within such watercourses where necessary to allow access to parking areas, intersecting roads, loading areas or similar areas of traffic circulation. Such drainage systems shall be sized for 20-year storms and will provide for directed water flow in a continuous manner away from developed areas into an established runoff or stream gully or into an area of sufficient land absorption capability to accept runoff from a 20-year storm without severe erosional consequences.

#### D. Building Perimeter Drains

1. Buildings with continuous perimeter footings shall be graded in such a manner as to direct surface water away from the foundation of that building.
2. Buildings with continuous perimeter footings which would receive, in addition to local drainage, water from more than 5 acres of catchment area above the building shall be provided with an appropriately sized and placed "brow" ditch to divert water away from the immediate building site.

3. Gutter downspouts on buildings shall be directed away from the building foundations by 90° bends on downspouts, a splatterboard and sloping grade or be directed into a storm water sewer system.

#### E. Sedimentation Basins

Where possible, the inlet to a culvert shall be provided with a sedimentation basin placed and sized in such a manner as to facilitate cleanout and to prevent sedimentation of the culvert itself.

### SECTION 6.050: STREETS

#### A. Definitions

##### Arterial Street

A street that is designated an arterial street in Volume 2, Transportation, of the Comprehensive Plan is a street which has an Average Daily Traffic of greater than 250 vehicles.

##### Collector Street

A street which has, or will have when the area it serves is developed, an Average Daily Traffic of 51 to 250 vehicles.

##### Cul-de-Sac Street

A short street having one end open to a street, and being terminated by a vehicle turnaround.

##### Local Street

A street which has, or will have when the area it serves is developed, an Average Daily Traffic of 0 to 50 vehicles.

##### Vision Clearance

Vision clearance is the visually open isosceles triangle formed by the intersection of two roadways as measured along each roadway from the inside corner of the intersection.

## B. Access

1. No development shall be approved which will exceed the carrying capacity of existing or proposed streets or where such development will create dangerous or hazardous traffic conditions.
2. Where possible, by-pass routes shall be provided to provide direct access to "A" areas as a means of eliminating the need to route traffic through other congested or residential areas.
3. Direct access from a development to an arterial street shall be generally discouraged and shall be prohibited where an alternative, preferable access is either available, or is expected to be available.
4. A street shall not enter a collector or an arterial road less than 100' from another street intersection.
5. Access points to an industrial or commercial site from a street shall be located to minimize traffic congestion and hazard. No access point shall be allowed which would direct industrial or commercial traffic into a Residential zoning district. Wherever possible, access points should be located to serve more than one industrial or commercial site or use.
6. For structures in Residential and Community Service zoning districts, access shall be provided to within 250' of such structures.

## C. Right of Way

1. Street rights of way shall be dedicated as follows:
  - a. local - 40', or 20' either side of centerline;
  - b. collector - 50', or 25' either side of centerline;
  - c. arterial - 60', or 30' either side of centerline.
2. Slope easements may be required by an Oregon registered professional engineer where warranted by unique site conditions such as topography or the size and shape of the parcel involved.

#### D. Relation to Adjoining Street System

Within adjoining development all proposed streets other than local streets shall be in alignment with existing or planned streets unless, in the judgment of the Director, conditions such as topography, drainage and area to be served make such continuation or conformity impractical.

#### E. Street Intersections

1. Where possible, all streets shall intersect at right angles (90 degrees), provided, however, that where an intersection of 90 degrees cannot be obtained due to topography or similar constraints, an angular intersection of less than 90 degrees may be permitted. In no case shall the angular intersection be less than 60 degrees.
2. All street intersections shall have roadway curb radii of not less than 20 feet.

#### F. Cul-de-Sacs

Dead-end streets shall terminate in a turnaround with a minimum radius of 30 feet.

#### G. Future Extensions of Streets

Where necessary to provide access to or permitted development of adjoining land, streets shall be extended to the boundary of the new development and the resulting dead-end streets may be approved with temporary turnarounds.

#### H. Street Orientation

To maximize potential for unobstructed solar access to all development, streets shall be laid out to run in a generally east-west direction to the maximum extent feasible, within the limitations of the existing topography, the configuration of the site, pre-designated future street locations and existing street patterns of adjacent development. The east-west orientation of streets shall be integrated into development design for solar orientation.

#### I. Street Names

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with

the name of an existing street in the City. Street names shall be subject to the approval of the City Council.

J. Vision Clearance

Vision clearance in "B" areas shall be a minimum of 25' along each street. In "A" areas vision clearance shall be a minimum of 20' along each street. For an individual driveway, parking lot entrance, alley or other similar low-speed entry into a street, the vision clearance shall be 15' minimum.

K. Maximum Grade

The maximum grade for City streets shall be as follows:

1. arterial street - 10% grade;
2. collector street - 12% grade;
3. local street - 13% grade.

L. Curves

1. Direct curves shall conform to the following minimum radius as measured to the centerline of the road:
  - a. arterial street - 200' radius;
  - b. collector street - 125' radius;
  - c. local street - 75' radius.
2. Existing City streets which do not meet the above standards shall be brought to the above standards within two years from the effective date of this Plan unless the Director determines that an exception to this rule would not cause traffic hazards or undue hardship.

M. Road Surface

1. The minimum surface widths for streets shall be:
  - a. arterial street - 24'
  - b. collector street - 24'
  - c. local street - 20'

Existing local roads within the City limits which do not conform to the above standards shall be brought into conformance within two years from the effective date of this Plan.

2. Shoulder widths shall be a minimum of 4' for arterial streets, 2' for collector streets, and none for local streets.
3. Surfacing materials of the streets shall be as follows:
  - a. all streets shall be surfaced with a minimum of 4" of 1" minus crushed rock;
  - b. arterial streets shall be surfaced with a minimum of 2" of asphalt concrete within five years unless the Director determines that a particular section of arterial street, not surfaced with asphalt concrete, would not cause traffic hazards or undue hardship or inconvenience to the public.

#### N. Dust Abatement

All public streets except those surfaced with an all-weather surface such as asphalt or concrete shall be treated as needed with a dust abatement solution such as lignin sulfinic acid or magnesium chloride, and maintained to minimize dust or similar hazardous conditions.

#### SECTION 6.060: AIR QUALITY

- A. The discharge of air contaminants from any development shall not violate applicable state or federal air quality statutes, rules and standards.
- B. Prior to the approval of any development activity or process which produces or is likely to produce a significant quantity of free-floating dust or similar atmospheric pollutant, the applicant shall submit a statement detailing proposed pollutant reduction measures.

#### SECTION 6.070: FLOOD HAZARD AREA MANAGEMENT

- A. The following criteria and standards shall apply in all areas within a Flood Hazard Area as indicated on the 100-Year Flood Reference Map set forth in Volume 1 of the Rajneeshpuram Comprehensive Plan:

1. no buildings shall be permitted;
2. all culvert crossings shall be constructed to the standards set forth in Section 6.040.B of this Code;
3. all public facilities shall be designed, located and constructed to minimize or eliminate potential flood damages. Specifically, the Director shall ensure that:
  - a. a new or replacement water supply system shall be designed, located and constructed to minimize or eliminate infiltration of flood waters into the system;
  - b. a new or replacement sanitary sewage system shall be designed, located and constructed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters;
  - c. an on-site septic tank system or other individual waste disposal system is prohibited;
  - d. a registered engineer or licensed architect shall certify that the flood-proofing method utilized is adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood, and otherwise conforms to the flood-proofing standards of the State Structural Specialty Code and Chapters 10 to 14.

## SECTION 6.080: STREET LIGHTS

### A. Definitions

#### Glare

The effect of brightness or brightness difference within the visual field sufficiently high to cause annoyance, discomfort or loss in visual performance.

#### Luminaire

A complete lighting device consisting of a light source together with its direct appurtenances, such as globe, reflector, refractor, housing and such support as is in-



tegral with the housing. The pole, post or bracket is not considered part of the luminaire.

#### Mounting Height

The vertical distance between the roadway surface and the center of the apparent light source of the luminaire.

#### B. Standards for "A" Areas

Street lighting shall be provided during development in "A" areas in accordance with the following standards:

1. all lighting equipment, including luminaire and standard mounting, shall be specified by the Director in accordance with the design standards set forth in subsection B.2 below;
2. the following design guidelines shall be applied to all street lighting:
  - a. the mounting height shall be at least 20 feet;
  - b. the luminaire shall minimize glare;
  - c. "cutoff" type luminaires will be utilized;
  - d. no low-pressure sodium vapor lamps shall be used.
3. lighting shall be of a type and located in a manner which provides an adequate level of safety and/or security;
4. the Director shall publish standards of required street lighting according to use and intensity level. The Director shall also recommend standards of street lighting in "B" areas.
5. All street lighting shall be controlled by light-sensitive switches.

#### SECTION 6.090: SIGNS

- A. The following signs are permitted in all districts:
  1. signs not exceeding twenty-four (24) square feet in area and bearing only property numbers, post box

numbers, names of occupants or premises, or other identification of non-commercial premises.

2. professional name plates not exceeding four (4) square feet in area;
3. signs directing and guiding traffic and parking on private property, but bearing no advertising matter, not to exceed sixteen (16) square feet in area;
4. traffic or other municipal signs, directional signs for hospital or emergency services, legal notices, railroad crossing signs and danger signals;
5. memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface, or when constructed of bronze or other non-combustible material not to exceed eight (8) square feet;
6. real estate signs not exceeding sixteen (16) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are located;
7. signs for the purpose of directing the public to "open house" events providing for sale, rental or lease of premises. Said signs shall not be located in a manner as to cause a public safety hazard or nuisance, and further said signs may not exceed an area of twelve (12) square feet per display surface;
8. one temporary, non-illuminated sign on work under construction, not exceeding thirty-two (32) square feet in area; message limited to identification of architects, engineers, contractors and other individuals or firms involved with the construction and to name the building, purpose for which intended and expected completion date. The sign shall be limited to the construction site and shall be removed within fourteen (14) days after the building is ready for occupancy;
9. temporary political signs, not exceeding twelve (12) square feet in area, advertising candidates or issues, may be erected during the campaign for a period of forty-five (45) days prior to the election in which such candidates or issues are to be voted upon. Such signs shall be removed not later than the fifteenth (15th) day following such election;

10. temporary signs, not exceeding thirty-two (32) square feet in area; message limited to public notice;
11. temporary signs which are intended for use at grand openings of new businesses only and limited to a maximum period of fourteen (14) calendar days;
12. garage sale type signs located on the premises of the sale or with the permission of the occupant of the premises upon which the signs are located. Such signs, not to exceed a total area of eight (8) square feet, shall be removed within five (5) days after erecting, and shall not be located in such a manner as to cause a public safety hazard or nuisance;
13. advertising signs are permitted in all districts, but may not exceed a maximum overall size of thirty-six (36) square feet total combined surface area. Advertising signs must be permanently attached to a sign structure or incorporated within a wall sign;
14. banners, strings of lights, flags, pennants and similar devices in conjunction with fairs, festivals and other temporary events not exceeding 30 days in length.

B. Signs shall be subject to the following standards:

1. the maximum height of any portion of a sign or sign structure shall be 20 feet;
2. the minimum clearance below the lowest portion of a sign and the ground shall be 14 feet in any road, driveway or parking area;
3. projecting signs shall be subject to the following standards:
  - a. the maximum area shall be 24 square feet;
  - b. the minimum clearance below the lowest portion of a sign and the ground shall be 14 feet in any driveway or parking area, and 10 feet over any sidewalk;
  - c. a sign may project 6 feet over sidewalks.
4. signs may be illuminated if properly shielded from direct glare onto streets and adjacent properties;

5. A-board or sandwich signs shall be subject to the following standards:
  - a. the maximum area per face shall be 32 square feet;
  - b. no sign shall be placed so as to obstruct vision at intersections or pedestrian or bicycle traffic on designated pathways.
6. the location, quantity, size, clearance or illumination of a sign or device reasonably construed to be a sign which is not permitted according to this Section shall be subject to review and interpretation by the Director who may approve, disapprove or refer the matter to Council for action.

#### SECTION 6.100: OFF-STREET PARKING

Off-street parking shall be provided in accordance with the following requirements. No building or structure shall be constructed or enlarged or its use altered without the inclusion of parking space as required by this Code.

- A. Parking spaces shall meet the following specifications:
  1. parking spaces for cars shall be 18' x 9';
  2. parking spaces and end bays for buses shall be 40' x 10'.
- B. Access roads adjacent to parking bays shall be 24'.
- C. In the case of mixed uses within a single structure, the requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately, except that required parking facilities of two or more uses or structures may be satisfied by the parking facilities used jointly, to the extent that it can be shown by the developer that the need for the facilities does not materially overlap (e.g., uses primarily of a daytime vs. nighttime nature).
- D. All parking spaces shall be within 400 feet of the structure or use being served, except in "A" areas where the structure is within 750 feet of adequate parking areas, as determined by existing or projected use.
- E. There shall be a safe, direct and convenient pedestrian route between the parking area and the structure being served.

- F. A parking plan, drawn to scale, shall be included as part of the site plan submitted pursuant to Article Four of this Code. The plan shall show elements necessary to indicate that the requirements of this Code are being fulfilled and shall include at a minimum:
1. delineation of individual parking spaces;
  2. circulation area necessary to serve spaces;
  3. abutting uses;
  4. an evaluation of multiple use of parking areas, if applicable;
  5. delineations of all abutting structures or structures to be served.
- G. All parking areas shall meet the following screening and buffering requirements:
1. parking areas shall be separated from the exterior wall of a structure by a 5' strip of land available for landscaping in addition to any pedestrian walkways;
  2. when an off-street parking area for more than 8 vehicles is located within a Residential or Community Services zone, a sight-obscuring fence, wall or other appropriate landscaping shall be provided. Such screening shall be protected from damage by vehicles using the parking area.
- H. Any parking area in other than residential areas containing more than 10 parking spaces but less than 20 parking spaces shall be provided with one handicapped parking space. Thereafter, one such parking space shall be provided for each additional 50 spaces. A handicapped parking sign shall be placed in front of each such space. Each such space shall be 12 feet wide.
- I. There shall be sufficient areas established, near all commercial, office, industrial, residential and recreational areas for parking and storage of bicycles. Such areas shall be clearly marked and reserved for this use.
- J. The following standards are the minimum off-street parking requirements, except that buildings and uses that

are served by public transport may have the required parking located at a maximum of 3 miles away.

MINIMUM REQUIRED OFF-STREET PARKING

USE

1. Places of Public Assembly One parking space for each 15 occupants based on maximum capacity as calculated under the provisions of the UBC, plus one additional bus parking space for every 250 occupants when occupancy is greater than 250 people.
2. Commercial (except repair garages and gasoline service stations) One space per 500 square feet of floor space.
3. Cafeteria One parking space per 200 square feet of floor space in dining area.
4. Repair garages and gasoline service stations Two parking spaces for each service stall.
5. Offices One space per 400 square feet of floor space.
6. Industrial One space per 1,000 square feet of floor space.
7. Storage warehouse wholesale One space per 2,000 square feet of floor space.
8. Health Facilities One space per 500 square feet of floor space.
9. Hotel, Motel One space per unit.
10. Residences and Apartments One space per three bedrooms (round to the nearest multiple of three).
11. Educational Facilities One space per 600 square feet.
12. Other In the case of a use not specifically mentioned, the requirements for off-street parking facilities shall be the same as the above-mentioned use which, as determined by the Director, is most similar to the proposed use.

SECTION 6.110: OFF-STREET LOADING

A. Types of Loading Berths

Required off-street loading space shall be provided in berths which conform to the following minimum specifications:

1. type "A" berths shall be at least 60 feet long by 12 feet wide inside dimensions, with a 60-foot maneuvering apron;
2. type "B" berths shall be at least 30 feet long by 12 feet wide inside dimensions, with a 30-foot maneuvering apron.

B. Numbers of Loading Spaces Required

The following numbers and types of berths shall be provided as a minimum for the specified uses unless exempted by the Director:

<u>USE</u>	<u>AGGREGATE FLOOR AREA (SQ.FT.)</u>	<u>NO. OF BERTHS REQUIRED</u>	<u>TYPE</u>
1. Industrial, Manufacturing, Wholesale establishments, Warehouses.	8,000-15,000 15,000-30,000 30,000 or more	1 1 2	B A A
2. Schools, Hospitals	12,000 or more	1	B
3. Restaurants and other sales-oriented Commercial establishments	8,000-15,000 15,000 or more	1 2	B B

C. Similar Use

In the case of a use not specifically mentioned, the requirements for off-street loading facilities shall be the same as the above-mentioned use which, as determined by the Director, is most similar to the proposed use.

D. Concurrent Different Uses

When any proposed structure will be used concurrently for different purposes, final determination of loading requirements will be made by the Director, but in no

event shall the loading requirements be less than the total requirement for each use based upon its aggregate floor area.

E. Location of Required Loading Facilities

The off-street loading facilities required for the uses mentioned in this Code shall abut the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirement.

F. Manner of Using Loading Areas

No space for loading shall be so located that a vehicle using such loading space projects into any public street.

SECTION 6.120: BIKEWAYS

- A. Bikeways shall have a hard, flat, all-weather surface.
- B. Width of bikeways shall be a minimum of 7'.
- C. Location of bikeways shall be determined to meet the following criteria:
  - 1. bicycle paths shall be located as provided for in Volume 2, Transportation, of this Plan;
  - 2. generally, bikeways should be located away from and independent of streets. Where, in the determination of the City Engineer, a bikeway must be located adjacent to an established street, the portion of such a street improved and designated as a bikeway shall be at least 7' in width and marked and reserved for bicycle traffic;
  - 3. bikeways which interesct with and cross streets shall be sloped to road level.

SECTION 6.130: WALKWAYS

Walkways, if provided, shall conform to the following standards:

- A. generally, walkways in "A" areas must have a surfacing consisting either of 2" of asphaltic concrete over a minimum of 4" of compacted crushed rock, or of 4" con-



crete. Walkways in "B" areas shall have a minimum surfacing of 2" of crushed rock. Alternative materials shall be specifically approved by an Oregon registered professional engineer;

- B. the City may specify a surfacing material or finish to match existing adjacent walkways;
- C. walkway surfacing in "A" areas shall be a minimum of 5' in width unless specifically approved by the Director, and never less than 3' wide. Walkways in "B" areas shall be at least 3' wide;
- D. walkways shall have a maximum grade of 18%. Wherever grades in excess of 18% are necessary or desirable, steps or similar construction techniques shall be employed;
- E. steps in walkways should be avoided if possible. If needed, steps will have riser heights of 5" to 8" and have at least 12" to 18" treads built of non-slip materials. Where five or more consecutive steps are located together in a walkway, a handrail on one side of the steps shall be provided. Steps in walkways shall extend the full width of the walkway unless a railing or other barrier is provided, and steps in any case shall not be less than 30";
- F. walkways must be designed in such a way as to allow the surface drainage to sheet flow across them and not follow them longitudinally;
- G. curbs, if provided, shall be cut and sloped to street level at street intersections to provide adequate handi-capped access.

#### SECTION 6.140: PARKS

- A. Parks shall be located so as to provide access in a manner appropriate for their intended users. Specifically, a park open to the public shall abut a public road for at least 100' and neighborhood parks shall be accessible from a street by improved walkways not to exceed 250' in length.
- B. Lighting shall conform to the following standards:
  - 1. lighting in parks shall be provided to the extent necessary to allow evening use;

2. lighting shall be of a variety which maintains rather than overwhelms the park-like atmosphere.
- C. Sanitary facilities shall conform to the following standards:
1. lighted restrooms shall be provided as appropriate for the expected number of users;
  2. trash disposal cans shall be provided and maintained in all parks.
- D. Any children's playground areas shall be designed and built to include the following considerations:
1. edges and surfaces of structures shall be rounded and "splinter-resistant" for safety;
  2. structures shall be designed so that more difficult play structures will be more difficult to reach, to avoid children finding themselves suddenly beyond their limits;
  3. to the extent possible, structures should be built of "natural" materials such as wood, rocks and/or metal.

#### SECTION 6.150: LANDSCAPE

All landscaping required by this Code or provided at the option of the developer shall conform to the following standards.

##### A. General

1. In general, landscaping should be used to enhance those areas which will have the greatest impact on the public and the residents. Examples: entry walks, entry areas to buildings, parking areas, private outdoor space, public plazas. In the case of residential areas, consideration should be given to the landscaping of rights of way with street trees; landscaping of easements, cut banks and parking areas, as well as other landscaping on the development site.
2. Plant materials in parking lots shall not interfere with the maintenance of safety and security in the

parking lot; i.e., they shall not interfere with vision clearance nor visual access by security patrols.

#### B. Landscape Disturbed by Construction

1. All areas disturbed by the construction process shall be restored with plant material native to the site or replanted with suitable plant material.
2. Topsoil removed by the construction process shall be replaced as needed to ensure the continued growth and health of the plant material.

#### C. Use of Existing Plant Material

Use of existing plant material on the site shall be encouraged if the plant material is in a healthy condition and is determined by the Director to be appropriate for the functions and uses of the area.

#### D. Protection of Existing Plant Material

1. Trees with dbh greater than six inches shall be preserved wherever possible.
2. Rare and endangered species of plant materials shall be protected by the developer. These areas should be noted on the landscape plans for the development. Plans for protection shall be approved by the Director.
3. The developer shall pay particular attention to protection of the plant materials in drainage areas, stream corridors and distinctive natural areas. If these areas are disturbed, replantings in these areas shall be native or naturalized plant materials which provide wildlife habitat and protect the ecology of the area.

#### E. Use of Suitable Plant Materials

1. Plant materials that are suitable for their intended function shall be chosen. As an example, plants which are to function as screening elements shall be able to achieve the required mature height, be dense enough to block vision of the element being screened and have foliage year-round.

2. Plant materials shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas which will not be irrigated should be sufficiently hardy to thrive under these conditions.

#### F. Location of Landscape Plant Materials

1. Location of plant materials shall be coordinated with other uses such as bikeways, pedestrian paths, equestrian trails, storm drains, utilities, street lights, mail and newspaper boxes, shelters and bus stops.
2. Location of landscape plant material may also be influenced by such conditions as topography, steep terrain, soil conditions, existing trees and vegetation, and preservation of desirable views.
3. Landscape plant materials shall be of a type and mature size that does not interfere with the maintenance of a safe and adequate sight distance at corners, intersections and drives.
4. Trunks, branches and foliage of landscape plant material shall not interfere with the safe passage of cars, trucks, buses or other vehicles nor with pedestrians, cyclists and equestrians.
5. Maintenance of safe lighting of streets, walks and paths shall be considered in the selection and location of landscape plant material.
6. Landscape plant material shall be planted to avoid obstructing solar access to buildings.
7. Landscape plant material shall be used to enhance energy conservation.

#### G. Landscape Plant Material Standards

##### 1. Circulation Areas

Trees within or adjacent to parking areas, internal streets and walks shall have the following characteristics:

- a. species selected shall be able to withstand the stressful conditions inherent in the growing of plant material near traffic and in City conditions;

- b. species shall not be of a type that typically attracts insects, roosting birds or other nuisances;
- c. they shall be ecologically suited to the conditions under which they will be growing, with light, water, drainage and soils being taken into account and modified if necessary to ensure the health of the trees.

## 2. Hazardous Plant Material

Potentially hazardous landscape plant materials (e.g., thorny, poisonous fruits and berries) shall be used with caution in any development.

## H. Planting Standards

1. Spacing of plant materials shall be based on the size of the plants at maturity. Planting plans shall show the plants at maturity. Spacing of plants used for erosion control shall be based on steepness of slope and rate of growth of the ground cover. Steeper slopes shall be planted with more plant materials.
2. In general, branches and stems of plant materials shall be maintained so as not to cause a hazard.
3. Landscape plant material may be planted in planters if approved by the Director.
  - a. If landscape plant material is planted in planters, the planters shall not create any hazards to pedestrians, cyclists, equestrians or vehicles.
  - b. Particular attention shall be paid to irrigation of plant materials located in planters.
4. All plants at installation shall have normal, well-developed branches and vigorous root systems. They shall be sound, health, free from defects, diseases and infections.
5. In general, landscape plant materials shall be planted in holes dug twice the size of the root ball or root mass of the plant.

## SECTION 6.160: SCREENING AND BUFFERING

### A. Definitions

#### Screening

The visual concealment of non-harmonious elements or uses.

#### Buffering

The physical separation of potentially disruptive influences between different use areas.

### B. Required to Screen and Buffer

All developments shall screen or buffer any visual or noise pollution as near as possible to its source.

### C. Visual Impacts

Screening shall be used in all developments to eliminate or reduce the visual impacts of the following:

1. service areas and facilities, including, but not limited to, the following: garbage and waste containers, commercial and industrial loading and shipping areas (screening shall not impair the servicing and use of these areas);
2. outdoor storage areas;
3. on-grade and above-grade utilities, mechanical and electrical equipment;
4. parking areas, according to requirements set forth in Parking of this Code.

### D. Dissimilar Adjoining Uses

Buffering shall be used in any development to mitigate adverse impacts and to provide for compatibility between dissimilar adjoining uses. The applicant will give special consideration to the buffering and screening between residential areas and commercial, community service or industrial areas. Additional buffering or screening may be required to ensure that the qualities of the residential areas are retained.

SECTION 6.170: SETBACKS AND SEPARATIONS

A. Setbacks from Roads

1. All buildings in "B" or "C" areas shall have at least a 20-foot setback from the right of way of all public roads.
2. All buildings in "A" areas shall have a 10-foot setback from the right of way of public roads.

B. Separations on a Single Lot

1. Any structure primarily used as a residence shall be located no closer than six (6) feet to any other structure or half the height of the taller of the two buildings, whichever is greater.

Accessory structures and structures utilizing common-wall construction are exempt from this requirement except that in all cases appropriate state building and fire codes shall apply.

2. Any stable, barn, pen, corral or other structure that contains or shelters livestock or other animals shall be located no closer than 400 feet from any residence.

3. The minimum separation between any building being used solely for residential use and any building housing the following uses shall be as indicated:

a. Business, Shops or Offices	50'
b. Industrial, Warehousing	200'
c. Educational, Religious or Cultural Buildings	150'

C. Setbacks from Streams

All buildings shall be at least 25 feet measured horizontally from the high water line of any stream which flows above ground more than three months a year.

D. Noise Impacts

1. In addition to screening and buffering of visual impacts, consideration shall also be given to the buffering and attenuation of noise impacts.

2. All developments shall comply with noise standards adopted by the Department of Environmental Quality.

#### E. Heat and Glare Impacts

Except for exterior lighting, operations producing heat or glare shall be conducted within enclosed buildings.

#### F. Materials

1. Buffering and screening may be accompanied by the use of plant materials (generally evergreen), earth berms, walls, fences, proper siting of disruptive elements, building placement or other design techniques.
2. Screening and buffering done with plant materials shall be installed at a size which will achieve the desired effect within two years.

#### G. Design

1. The design of the screen or buffer shall be compatible and harmonious with other design elements on the site.
2. The height and type of screen buffer shall also be determined by the element to be screened, and the relationship to other design elements on the site.

#### H. Format

For development in "A" areas, the developer shall provide plans and elevations showing the elements in the site to be screened, the type of screens to be constructed and a description of the materials to be used.

### SECTION 6.180: HEIGHTS

The purpose of this Article is to limit the height of structures as needed to reduce the visual imposition of a building and to protect access to natural light and ventilation.

#### A. Measurement of Height

The height of a structure is the vertical distance as measured from the highest point of any vertical exterior wall of the structure to the average of the highest and lowest ground surface elevation as measured at any point beneath the perimeter of the building.



## B. Standards

In the Residential district the maximum height of a structure shall be 30 feet. In the Community Services, Recreation, Commercial and Industrial districts, the maximum height of a structure shall be 40 feet.

## C. Exceptions to Height Standards

1. Grain elevators, silos, windmills and barns and all other non-residential structures used in conjunction with farm use, provided they be separated from any residence by at least a distance equal to their height.
2. Water tanks, provided that they be separated from any habitable structure by a distance at least equal to their height and are provided with a drainage route away from such structures to accommodate water flow in the event of rupture or puncture.
3. Radio, television and other transmitting and receiving antennae and flagpoles.
4. Chimneys and ventilation stacks, which may extend up to three (3) feet above the height limit.
5. Buildings used primarily for religious purposes.
6. Other vertical features which are not more than 5% of the total ground floor area.

## SECTION 6.190: ENERGY EFFICIENCY

### A. Definitions

#### Air Infiltration

Entry or escape of air through uncontrolled openings such as door and window frames, sills, openings for pipes, ducts and wires. Air infiltration is measured in air changes per hour.

#### Building Envelope

The portion of a lot or site within which principal structures may be located, the setback line.

### Design Heat Load

The calculated amount of energy required to maintain the building at set point temperature in terms of BTUs/Sq.Ft./F<sup>o</sup>.

### Solar Access

Unobstructed access to solar radiation on surfaces designed for absorption during the hours of 9:00 a.m. to 4:00 p.m. throughout the year.

## B. Standards

All residential structures shall be constructed in a manner to guarantee a maximum design heat load of 375 BTUs/Sq.Ft./F<sup>o</sup>. All new developments shall incorporate suitable energy conservation techniques into the design of sites and buildings, and into the construction of buildings to ensure that buildings do not exceed this maximum consumption level. Heat load calculations shall be submitted with mechanical plans for heat/cooling systems and shall conform to industry-accepted standards.

It is understood and acknowledged that this standard exceeds the 1982 Oregon Uniform Building Code. The maximum design heat load is a performance standard and encourages the use of new technologies in this rapidly developing industry. No section of this Code shall be construed to require specific construction techniques in excess of the Uniform Building Code or the State of Oregon Solar Code.

## C. Design Considerations

1. Site design should:
  - a. provide for south-facing orientation of buildings. Streets, building lots or other sites shall be designed wherever possible to allow buildings to have solar access. Exceptions may be made on north-facing slopes, where southern exposure is otherwise unfeasible.
  - b. minimize disturbance of terrain and vegetation. Streets shall be designed to minimize the area of pavement, length of street and related changes in terrain and removal of vegetation. Building envelopes or setbacks shall be estab-

lished which allow flexibility in placement of structures to accommodate preservation of existing terrain and vegetation;

- c. provide for solar access wherever possible. Building envelopes or setbacks shall be established which allow flexibility in placement of structures to allow solar access. Provision of solar access may be a valid reason for a variance from the City's regulations;
- d. provide alternative transportation. Major developments shall provide pathways and transit facilities to encourage walking, bicycling and the use of mass transit wherever possible;

2. Building design should:

- a. provide south-facing exposure and encourage wall and window orientation and exposure which allow for solar heat gain during the heating season. On north-facing slopes, compensating measures shall be provided;
- b. control air infiltration through accepted building designs and construction specifications.

SECTION 6.200: EROSION CONTROL AND GRADING

A. Definitions

Cut or Excavation

Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated.

Erosion

Detachment and movement of soil or rock fragments by water, wind, gravity, frost and ice or mechanical action caused by development activities.

Fill

Placement of any soil, sand, gravel, clay, mud, debris and refuse or any other material, organic or inorganic.

### Mulch

Application of plant residue, netting, plastic sheeting or other suitable materials to the land surface to conserve moisture, hold soil in place and aid in establishing plant cover. Plastic mulch may be used only temporarily, during construction activities.

### Sediment

Any organic or mineral material that is in suspension, is being transported or has been moved from its site of origin by water, wind or gravity as a product of erosion.

### Stripping

Any activity which disturbs vegetated or otherwise stable soil surface, including clearing and grubbing operations.

## B. Slope Stability

1. Cuts shall not be made in slopes of greater than 20% in areas consisting primarily of landslide debris or in slopes greater than 30% in other areas, except with the approval of a registered professional engineer or when in conjunction with quarrying operations.
2. Slopes in areas identified as "claystone and decomposed volcanic rock," "landslide debris" and "alluvium" shall be constructed at or flatter than the inclinations presented below (inclinations are given in horizontal to vertical units):

<u>Slope Inclination</u>	<u>Maximum Cut Slope Height (Ft.)</u>	<u>Maximum Fill Slope Height (Ft.)</u>
1.5 to 1	20	25
2.0 to 1	25	30

Construction of fill slopes on top cut slopes excavated in these units which will result in total slope heights greater than the values in the table above shall be avoided.

3. Slopes in all other areas shall be constructed at or flatter than the following inclinations:

<u>Slope Inclination</u>	<u>Maximum Cut Slope Height (Ft.)</u>	<u>Maximum Fill Slope Height (Ft.)</u>
1.5 to 1	25	25
2.0 to 1	30	30

4. Structures such as pole foundation structures which do not require cuts into slopes may be placed on slopes up to 35%.
5. Exceptions to this subsection may be authorized upon the requirement of:
  - a. the approval and report of a qualified engineer or geologist; or
  - b. assurances of continued monitoring by a qualified engineer or geologist.

#### 6. General Requirements

##### a. Design Principles

All developments shall be designed to minimize the disturbance of natural topography, vegetation and soils. Drainage management methods shall be designed to trap and retain sediments on site.

##### b. Construction Practices

All development activity shall minimize strip-ping or other soil disturbance and shall provide positive soil erosion prevention measures.

#### 7. Design Standards

- a. Designs shall minimize cuts and fills. All proposed cuts, fills or retaining walls shall be shown on development applications.
- b. Chapter 70 of the Uniform Building Code, 1970 edition, entitled "Excavation and Grading" has been adopted by the City. Cuts and fills shall conform to the minimum requirements of Chapter 70.

## 8. Standard Construction Practices

- a. The land area to be grubbed, stripped, used for temporary placement of soil or otherwise used in such a manner as to expose soil to erosion shall be minimized. The duration of exposure of soils to erosion shall be kept to the minimum practical.
- b. All sediments which are carried into streets, or onto adjacent property, are the responsibility of the builder or general contractor of the development. The builder shall assure that streets and adjacent properties are kept free of sediments and organic debris.

## 9. Earthquakes

Construction standards shall be in conformance with Seismic Zone 2 in the Uniform Building Code.

## SECTION 6.210: AIRPORTS

### A. Airport Standards

1. A "clear zone" wherein no construction may occur will be maintained at the ends of the runway. The zone shall be longitudinally centered around an extension of the centerline of the runway and shall have a width of 100' and extend out 200' from the end of the runway.
2. No structures shall be allowed within 185' of either side from the centerline of the runway.
3. An "approach surface" is defined to be longitudinally centered on the extended runway centerline, extending outward and upward at a slope of 20:1 from the runway surface. It shall have a length of 5,000 feet and extend uniformly in width from the runway width to 1,250 feet. No structure shall be erected, altered or maintained, and no tree shall be allowed to grow to a height in excess of the approach surface height at that location.
4. Notwithstanding any other provision in this Code, no use may be made of land or water on City property in such a manner as to create electrical interference

with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.





## Article Seven: LAND DIVISIONS





ARTICLE SEVEN

COMPREHENSIVE PLAN MAP AND TEXT AMENDMENTS

SECTION 7.010: PURPOSE

This Article establishes procedures which permit, as may be necessary from time to time, amendment of the text of the Rajneeshpuram Comprehensive Plan or the boundaries of any designation, Designated Planning Area or other information delineated on the Land Use Plan Map, in order to meet changing circumstances and needs within the community. Text amendments are legislative actions solely within the authority of the City Council, while map amendments may be either legislative or quasi-judicial in nature.

SECTION 7.020: INITIATION OF AMENDMENT

A map or text amendment may be initiated by an application as provided in Section 2.030 of this Code. Applications for amendments may be submitted at any time provided, however, that all applications shall be filed with the Director at least ten (10) days prior to a hearing date.

SECTION 7.030: FEE

An application for a map or text amendment shall be accompanied by the required fee established by the Council.

SECTION 7.040: APPLICATION FORM AND CONTENT

- A. The Director shall prescribe forms for applications for map or text amendments which, when completed, shall be sufficient to describe the nature and effect of the proposed change.
- B. Applications for map or text amendments may be combined with application for an administrative action for the same property in the manner provided in Section 2.070 of this Code.

SECTION 7.050: COUNCIL ACTION

- A. The Council shall review an application for a plan amendment pursuant to Section 2.060.C of this Code including

the holding of a public hearing upon the proposed amendment pursuant to Section 2.140 to 2.210 and, if the proposed amendment was combined with an application for administrative action, the Council shall conduct any such required hearing at the same time. The Council may approve, deny or amend the proposal in accordance with the provisions of Section 2.080 of this Code.

- B. The Council may approve an amendment only upon a finding that the proposal fully complies with:
1. the applicable Comprehensive Plan Policies; and
  2. the statewide planning goals adopted by the Land Conservation and Development Commission pursuant to ORS 197.240 or as revised pursuant to ORS 197.245. If it appears that it is not possible to apply an appropriate goal to specific properties or situations, then the application shall set forth the proposed exception to such goal as provided in Statewide Planning Goal 2, Part II. Compelling reasons and facts shall be given why an exception should be adopted, including:
    - a. why the proposed use should be provided for;
    - b. what alternative locations within the area could be used for the proposed use;
    - c. what are the long-term environmental, economic, social and energy consequences to the locality, the region or the state from not applying the goal or permitting the proposed use;
    - d. how the proposed use will be compatible with other adjacent uses.

SECTION 7.060: FACTORS RELATIVE TO THE APPROVAL OF A PLAN MAP OR TEXT AMENDMENT IN CONJUNCTION WITH CONCEPT PLAN APPROVAL

In addition to the criteria set forth in subsection 7.050.B of this Article, the Council may also address the following considerations in its review of a Plan map or text amendment in conjunction with a concept plan application submitted pursuant to Section 2.060.A.5 and Article Four of this Code:

- A. compatibility of the proposed amendment and uses permitted thereunder with existing uses in adjacent Designated Planning areas and zone designations;
- B. unforeseen changes in the location of major facilities;
- C. evidence of topographic or geologic considerations or features revealed upon more detailed analysis of the area encompassed by the proposed concept plan or adjacent DPAs; and
- D. the orderly, efficient and economic continuation of facilities and services to adjacent DPAs.



Article Eight: QUASI-JUDICIAL PLAN AMENDMENTS







ARTICLE EIGHT

CODE MAP AND TEXT AMENDMENTS

SECTION 8.010: PURPOSE

This Article establishes procedures which permit, as may be necessary from time to time, amendment of the text of this Code or the boundaries of any district delineated on the Rajneeshpuram Zoning Maps in order to conform with the adopted Comprehensive Plan as adopted or amended, or to meet other changes in circumstances or conditions. Text amendments are legislative actions solely within the authority of the City Council while map amendments may be either legislative or quasi-judicial in nature.

SECTION 8.020: INITIATION OF AMENDMENT

A major text amendment may be initiated by an application as provided in Section 2.030 of this Code. Applications for amendments may be submitted at any time provided, however, that all applications shall be filed with the Director at least ten (10) days prior to a hearing date.

SECTION 8.030: FEE

An application for a map or text amendment shall be accompanied by the required fee established by the Council.

SECTION 8.040: APPLICATION FORM AND CONTENT

- A. The Director shall prescribe forms for applications for map or text amendments which, when completed, shall be sufficient to describe the nature and effect of the proposed change.
- B. Applications for major text amendments may be combined with application for an administrative action for the same property in the manner provided in Section 2.070 of this Code.

SECTION 8.050: COUNCIL ACTION

- A. The Council shall review an application for a Code amend-

ment pursuant to Section 2.060.C.5 of this Code, including the holding of a public hearing upon the proposed amendment pursuant to Section 2.140 to 2.210 and, if the proposed amendment was combined with an application for administrative action, the Council shall conduct any such required hearings at the same time. The Council may approve, deny or amend the proposal in accordance with the provisions of Section 2.080 of this Code.

- B. The Council may approve an amendment only upon a finding that the proposal fully complies with:
1. the applicable Comprehensive Plan policies and map designation; and
  2. the statewide planning goals adopted by the Land Conservation and Development Commission pursuant to ORS 197.240 or as revised pursuant to ORS 197.245. If it appears that it is not possible to apply an appropriate goal to specific properties or situations, then the application shall set forth the proposed exception to such goal as provided in Statewide Planning Goal 2, Part II. Compelling reasons and facts shall be given why an exception should be adopted including:
    - a. why the proposed use should be provided for;
    - b. what alternative locations within the area could be used for the proposed use;
    - c. what are the long-term environmental, economic, social and energy consequences to the locality, the region or the state from not applying the Goal or permitting the proposed use;
    - d. how the proposed use will be compatible with other adjacent uses.
- C. The Director may approve, deny or amend ministerially map amendments accompanying implementation of phased development. The Director may approve a map amendment implementing phased development only upon finding that the proposal fully meets the following criteria:
1. 75% of the current phased DPAs are under development, or have been developed, in the same City area (Gautam the Buddha Grove, Desiderata Canyon or Jesus Grove); and

2. urban facilities and services are being developed or are available in that specific land use classification within the same city area.

SECTION 8.060: FACTORS RELATIVE TO THE APPROVAL OF A CODE MAP OR TEXT AMENDMENT IN CONJUNCTION WITH CONCEPT PLAN APPROVAL

In addition to the criteria set forth in subsection 8.050.B of this Article, the Council may also address the following considerations in its review of a Code map or text amendment in conjunction with a concept plan application submitted pursuant to Section 2.060.A.5 and Article Four of this Code:

- A. compatibility of the proposed amendment and uses permitted thereunder with existing uses in adjacent Designated Planning Areas and zone designations;
- B. unforeseen changes in the location of major facilities;
- C. evidence of topographic or geologic considerations or features revealed upon more detailed analysis of the area encompassed by the proposed concept plan or adjacent DPAs; and
- D. the orderly, efficient and economical continuation of facilities and services to adjacent DPAs.



Article Nine: LAND DIVISIONS





ARTICLE NINE

LAND DIVISIONS

SECTION 9.010: TENTATIVE PLAN APPLICATION

A. A person proposing to subdivide land or create a major partition in the City shall submit a tentative plan and other such supplementary information as required to the Director, together with a completed application on a form provided by the Director. For all maps, plans and diagrams submitted, including the tentative plan, the Director shall be provided ten paper prints. The Director shall not accept for processing any tentative plan application which is incomplete according to the requirements of this Code. The tentative plan shall be prepared by an Oregon licensed professional engineer or land surveyor. An affidavit of the services of such surveyor or engineer shall be furnished as part of the tentative plan submittal.

B. Filing Fee

The subdivider shall pay to the City a tentative plan filing fee as established by the City Council to defray the costs incurred by the City in checking, investigating and other matters required by state law and this Code for every proposed subdivision submitted to the Director for review. A nonrefundable tentative plan filing fee must be paid at the time of submittal of an application, and in no way assures approval of the proposal.

SECTION 9.020: TENTATIVE PLAN REVIEW

- A. Within seven (7) working days after receipt of a completed tentative plan application, including all supplementary materials which may be required as authorized by this Code, the Director shall distribute the tentative plan materials to all affected city, county, state and federal agencies and all affected special districts for their review and comment.
- B. Within ten (10) working days after receiving notice and tentative plan materials, all responses from affected agencies shall be received by the Director. If no written response is received from a notified agency by the Director within that period, it shall be assumed

that such agency approves of the tentative plan, as submitted, unless an extension is requested. A notified agency may receive upon request an extension of no more than ten (10) additional working days for review of the tentative plan.

- C. The Hearings Officer shall review a tentative plan application pursuant to Section 2.060.B of this Code, including the holding of a public hearing upon the proposed tentative plan pursuant to Sections 2.140 to 2.210. The Hearings Officer may approve, deny or amend the proposal in accordance with the provisions of Section 2.080 of this Code.

#### SECTION 9.030: INFORMATION REQUIRED ON THE TENTATIVE PLAN

The tentative plan of a subdivision or major partition shall be of such scale on all maps that all survey and mathematical information and all other details may be clearly and legibly shown thereon. The tentative plan shall show:

- A. proposed name of the subdivision. This name shall not duplicate or resemble the name of any other subdivision in the County, unless the subject subdivision is contiguous to and platted by the same developer who platted the preceding subdivision bearing that name or by a subdivider having written authorization from the original developer to continue an existing subdivision under the same name. All such subdivisions shall continue the block numbers of the subdivision of the same name last filed;
- B. the date of application, north point and scale of the drawing. Note: all pertinent information shall be shown on standard size sheets of 18" by 24". In all cases the scale shall be a standard drafting scale, being 10, 20, 30, 40, 50 or 60 feet to the inch or multiples of 10 for any one of these scales;
- C. names and addresses of the developer and of the engineer, surveyor or land planner or landscaper;
- D. the tract designation or other description according to the real estate records of Wasco County;
- E. the boundary lines (accurate in scale) of the tract to be subdivided;
- F. contour lines at 5' intervals;



- G. the names of adjacent subdivisions or the names of recorded owners of adjoining parcels of unsubdivided land;
- H. the location, width and names of all existing or plotted streets or other public ways within or adjacent to the tract, existing permanent buildings, and other important features such as section lines, political subdivisions or corporation lines and school district boundaries;
- I. locations and widths of streets and roads to be held for private use, and all reservations or restrictions relating to such private roads and streets;
- J. existing sewers, water mains, culverts or underground utilities and improvements within the tract or immediately adjacent thereto together with pipe sizes and locations indicated;
- K. all parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision together with the purpose of conditions or limitations of such reservation, if any;
- L. the location, names, width and approximate grades of all streets proposed or existing in the subdivision, and the approximate widths and locations of proposed easements for drainage, sewerage and public utilities;
- M. typical cross-sections of proposed streets at such scale to clearly show the details thereof;
- N. approximate location of all areas subject to inundation or storm water overflow and the location, width and direction of flow of all watercourses;
- O. proposed lots, approximate lot dimensions and lot numbers. Where lots are to be used for purposes other than residential, it shall be indicated upon such lots;
- P. parks, playgrounds, recreation areas, parkways and other open space for public use;
- Q. locations of proposed tree plantings or other plantings, if any;
- R. appropriate information clearly stating the map is a tentative plan;

- S. a preliminary plan for the location and construction of proposed water service facilities (may not apply to major partitions);
- T. a preliminary plan for the location and construction of proposed sanitary facilities (may not apply to major partitions);
- U. information on the source of other public utilities;
- V. proposed deed restrictions, if any;
- W. the location of any area of potential natural hazard;
- X. the location of any pedestrian walkways;
- Y. the location of any bikeways;
- Z. other information as required by state law.

SECTION 9.040: SUPPLEMENTAL MATERIALS WITH TENTATIVE PLAN

The Director or Hearings Officer may require materials in addition to those listed in Section 9.030 including but not limited to the following:

- A. proposal for other utilities and improvements such as electrical or telephone facilities;
- B. if the tentative plan does not show the following information, a vicinity sketch shall accompany or be drawn upon each print of the preliminary plan at a small scale (such as 400 feet equals one inch), showing all existing and adjacent subdivisions, streets, tract lines of acreage parcels, together with the names of the recorded owners of parcels of land immediately adjoining the proposed subdivision or major partition that may connect with existing or proposed streets and alleys in neighboring subdivisions or undeveloped property, to produce the most advantageous development of the entire neighborhood area.

SECTION 9.050: APPROVAL OF TENTATIVE PLAN

The following affirmative findings shall accompany approval of the tentative plan by the Hearings Officer:

- A. the tentative plan application complies with all applicable requirements for submittal;
- B. the tentative plan is consistent with all policies, standards and provisions of the Comprehensive Plan and the Development Code;
- C. there will exist an adequate quantity and quality of water and an adequate sewerage disposal system, as determined on the basis of preliminary utilities plans, to support the proposed use of the land described on the plat;
- D. approval will not impede the future best use of the remainder of the property under the same ownership, or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto;

If affirmative findings cannot be made with regard to the above criteria, the Hearings Officer shall not approve the tentative plan.

#### SECTION 9.060: APPROVAL WITH CONDITIONS

The Director may require such additional information or developments as necessary for the full utilization of resources, environmental protection and consumer protection. Such conditions may include, but shall not be limited to, the provision of domestic water on each or some of the lots, paving of streets or ways, construction of sidewalks, clearing of fire breaks and control of erosion.

If it appears necessary or prudent for the protection of the public health, safety, welfare or the economic stability of the City, the City Council shall withhold or deny acceptance and approval of any final plat submitted until the specified conditions of tentative plan approval are met.

#### SECTION 9.070: TENTATIVE PLAN EFFECTIVE FOR ONE YEAR

Tentative plan approval shall be effective for one year, within which time a complete, final plat submittal must be received by the Director. Following expiration of the approval period, the tentative plan shall not be reconsidered except as a complete resubmittal of a tentative plan application.

SECTION 9.080: SUBMITTAL OF FINAL PLAT OR FINAL MAP

- A. Within one year after approval of the tentative plan, the subdivider or partitioner shall cause the subdivision or major partition to be surveyed by a state certified engineer or surveyor and a plat or map prepared.
- B. When the tentative plan for a large subdivision has been approved, showing proposed phases of platting, if any, such phases of that large subdivision may be submitted for review, approval and recording as a final plat if the approved tentative plan of the large subdivision is adhered to without significant alteration. In such cases, the one year limitation for presenting the final plat shall be waived by the Director if one logical phase of the larger subdivision has been submitted, approved and recorded as a final plat within one year of the tentative plan approval.

SECTION 9.090: TECHNICAL REVIEW OF FINAL PLAT OR FINAL MAP

Upon receipt of a complete final plat or map proposal by the Director, the plat or map and other required information shall be reviewed. The Director and City Attorney shall examine the plat or map and supplementary materials to determine that the subdivision or major partition shown is substantially the same as it appeared on the approved tentative plan and that there has been compliance with provisions of state law and this Code.

SECTION 9.100: ACTION ON FINAL PLAT OR FINAL MAP

Within 60 days of receipt of a complete final plat or map submittal, the Director shall approve, deny or, when further information is required, postpone a decision on the application. Written notice of such action shall be mailed pursuant to Section 2.120. If the Director determines that full conformity with all applicable ordinances has not been made, he shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider or partitioner an opportunity to make the necessary changes or additions.

- A. A final plat or map shall be approved only if affirmative findings can be made that:

1. the plat or map is in substantial conformance with the provisions of the tentative plan as approved;
  2. the proposal is consistent with the provisions, intents and purposes of the Comprehensive Plan and the Development Code as they existed at the time of the tentative plan approval;
  3. streets or roads which are dedicated for public uses are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
  4. the plat or map contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems, the donation of which is required by ordinance or was made a condition of the approval of the tentative plan for this subdivision or partition;
  5. explanations of all common improvements to remain in private ownership have been accounted for and referenced on the plat; and
  6. streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the City.
- B. If affirmative findings cannot be made with regard to all of the above criteria, the Director shall not approve the plat or map.
- C. If approved, such approval shall be evidenced by the signature of the Director on the plat or map, together with the date of approval. In the event of denial, the Director shall cause written notice and the reasons for denial to be furnished to the subdivider or partitioner.
- D. A decision made by the Director on a final plat application may be appealed to the Hearings Officer.
- E. If the approved subdivision plat or major partition map is not recorded with Wasco County within one year of final plat or map approval, such approval shall be null and void. In such case, the subdivider or partitioner shall re-submit the final plat or map application to the Director for review and approval. If amendments have been made to the Comprehensive Plan and/or the Develop-

ment Code since final plat or map approval which would affect the subdivision or partition, or if conditions on the site or adjacent parcels have changed substantially since original approval of the final plat or map, the Director may require the subdivider or partitioner to submit a new tentative plan application and make revisions necessary to meet the changed conditions. Such resubmittal shall be processed as an original application for tentative plan approval.

- F. Following approval of a final plat or map, the subdivider shall obtain the signatures of other public officials as required by state law, and shall present the plat or map to the recording officer of Wasco County. In addition to the requirements of state law and Wasco County pertaining to the filing and recording of approved subdivision plats or partition maps, the subdivider shall provide the City Recorder one exact reproducible copy thereof within 30 days of recording, composed or reproducible mylar.
- G. The subdivider or partitioner shall pay to the City a final plat filing fee as established by the City Council to defray the costs incurred by the City in checking, investigating and other matters required by state law, this Code and other City ordinances. This fee must be paid at the time of submittal of a final plat or map application, and in no way assures approval, and cannot be refunded.

#### SECTION 9.110: REQUIRED IMPROVEMENTS

For any subdivision or major partition approved in the City, the subdivider or partitioner shall have the responsibility of providing the following improvements:

- A. all streets to be constructed or improved shall comply with the minimum standards contained in this Code. In cases where physical conditions warrant it, special soil analyses or engineering designs may be required by a licensed engineer;
- B. on-site storm water retention and disposal systems shall be provided in accordance with the general standards below and pursuant to plans and specifications as approved by a licensed engineer;
- C. all sanitary sewerage systems shall be constructed and

connected to existing systems when applicable according to plans and specifications as approved by the State Department of Environmental Quality and a licensed engineer;

- D. public water lines shall be constructed in compliance with this Code and shall connect with existing public water lines which can be shown to be adequate for the development proposed. All water systems shall be designed to provide domestic water to each lot or parcel and to provide adequate fire protection facilities, and shall be constructed according to plans and specifications as approved by the State Department of Health and a licensed engineer.

#### SECTION 9.120: MINOR PARTITIONS

- A. Any person contemplating the minor partition of land within the City is encouraged but not required to consult with the Director before submitting plans to the Director. Upon request the Director shall furnish a copy of this Code and such pertinent regulations as may appear applicable.
- B. In the conduct of duties required by these provisions, the Director shall act as an agent of the Council and of the Hearings Officer. Approval of a tentative plan by the Director shall constitute approval by the Hearings Officer. Any person who so desires may apply for approval of a minor partition directly to the Hearings Officer. The Hearings Officer shall hold a public hearing on the application.
- C. All applications to the Director shall be accompanied by two (2) copies of a finished tentative plan map furnished by the petitioner. The tentative plan map shall be drawn in ink, and be of sufficient size to show all required detail. The map shall show the approximate distances along property lines and the approximate degree of corner angles. The tentative plan and map may be on as many sheets as necessary.
- D. The tentative plan for minor partitions shall include:
  - 1. the date, scale, north point, legend, controlling topography such as bluffs, creeks, watercourses, and other bodies of water, existing cultural features such as highways and railroads, and areas subject to flooding or mass earth movement;

2. legal description of the tract boundaries;
  3. name of the owner;
  4. the approximate area of each parcel which is larger than one (1) acre;
  5. identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from parcels intended for sale;
  6. the following statements which may be combined where appropriate:
    - a. if surveyed, a statement conforming to ORS 92.060 and 92.070 with the seal of and signed by the engineer responsible for the survey and final map;
    - b. if not sewerred, a statement signed by the authorized representative of the Department of Environmental Quality, State of Oregon, or the County Sanitarian regarding the suitability of each parcel to be partitioned for subsurface sewage disposal; or a statement signed by the partitioner that no investigation has been made of the suitability of any given parcel by an authorized representative of the Department of Environmental Quality and that no warranty is made that any parcel will be usable for subsurface sewage disposal;
  7. approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning; and
  8. such additional information as the Director or the Hearings Officer may deem necessary.
- E. If the Director accepts the plan for a minor partition, one (1) copy of the plan map shall be returned to the applicant. The applicant shall record the map with the Wasco County Clerk. Acceptance of a plan map for a minor partition by the Director shall expire and be null and void sixty (60) days from the date of acceptance, unless a signed plan map is recorded within said time.



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