ORDINANCE NO. NS-1609

AN ORDINANCE AMENDING THE CITY OF BEND 'S BUSINESS CODE, ORDINANCE NO. NS-1375, AS IT RELATES TO THE MERCHANT PATROL ACT, SECTIONS 7.600 - 7.622.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That portion of Ordinance No.NS-1375 codified as Bend Code 7.608 is amended to read:

7.608 Insurance Required.

(1) The applicant for a Merchant Patrol, **Private Investigator, or Armored Car Service** license [shall submit proof of operations and personal injury] **shall file with the City Recorder a certificate of** liability insurance coverage with limits consistent with the tort liability limits of the city **and shall name the City of Bend as additional insured.** The proof of insurance coverage required by this section may be satisfied by evidence that the applicant is an additional insured on an existing policy providing the coverage is in the required amounts.

Read for the first time this 2nd day of March, 1994.

Read for the second time this 16th day of March, 1994.

Placed upon its passage this 16th day of March, 1994.

YES: 6 NO: 0

Authenticated by the Mayor this 16th day of March, 1994.

John Wujack, Mayor

ATTEST:

Patricia S. Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1610

AN ORDINANCE VACATING A PORTION OF WEBSTER AVENUE AND AN ALLEY PERPENDICULAR TO WEBSTER AVENUE, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Commission on December 1, 1993 requesting that the following described area be vacated:

A portion of Webster Avenue located between blocks 12 and 13, Riverside, located in the Northeast one-quarter of the Southeast one-quarter of Section 29, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Northwest corner of Lot 7, Block 13, Riverside; thence North 60.00 feet to a point on the Northerly right-of-way of Webster Avenue; thence along said Northerly right-of-way East 120.00 feet, more or less to a point on the Westerly right-of-way of the Proposed Bend Parkway; thence along said Westerly right-of-way of the proposed Bend Parkway South 17°15'26" West 62.83 feet to a point on the Southerly right-of-way of Webster Avenue; thence along said Southerly right-of-way West 101.36 feet, more or less to the true point of beginning.

AND ALSO: A portion of the alley located in Block 13, Riverside, located in the Northeast one-quarter of the Southeast one-quarter of Section 29, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Northeast corner of Lot 3, Block 13, Riverside; thence East 20.00 feet to the Northwest corner of Lot 16, Block 13, Riverside; thence South 70.00 feet, more or less, to a point on the Westerly right-of-way of the proposed Bend Parkway; thence along said Westerly right-of-way South 27°09'40" West 43.81 feet to a point on the Easterly property line of Lot 1, Block 13, Riverside; thence North 108.98 feet, more or less, to the true point of beginning.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The Recorder of the City of Bend having caused a notice of public hearing for vacation of public property describing the above portion of WEBSTER AVENUE right of way and an ALLEY perpendicular to WEBSTER to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City Recorder having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Commission of the City of Bend having fixed the 2nd day of March, 1994, at 7:30 p.m. local time in the City Commission Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Commission having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of right of way of WEBSTER AVENUE and a portion of ALLEY perpendicular to WEBSTER AVENUE, Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 2nd day of March, 1994.

Read for the second time the 6th day of April, 1994.

Placed upon its passage the 6th day of April, 1994.

Yes: 4 No: 3

Authenticated by the Mayor this 6th day of April, 1994.

John Wujack, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1611

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM IL, LIGHT INDUSTRIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from IL, Light Industrial to RM, Urban Medium Density Residential:

See attached Exhibits A, B, C, D

Read for the first time the 6th day of April, 1994.

Read for the second time the 20th day of April, 1994.

Placed upon its passage the 20th of April, 1994.

YES: 6 NO: 0

Authenticated by the Mayor the 20th day of April, 1994.

John Wujack, Mayor

ATTEST:

Patricia Stell
Recorder, City of Bend

EXHIBIT A

TAX LOT 1700

A parcel of land located in the Northwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 4, T. 18 S., R. 12 E., W. M., Deschutes County, Oregon, and described as follows:

Beginning at a point which is the Northeast corner of said Northwest 1/4 of the Southeast 1/4 of the Southeast 1/4; thence S 00°10'07" E 363.71 feet; thence N 89°47'55" W 499.15 feet; thence N 03°01'20" E 365.63 feet; thence S 89°37'16" E 478.81 feet to the point of beginning.

EXHIBIT A

TAX LOT 1701

A parcel of land located in a portion of Tract Seven (7), Block Three (3) of the unrecorded Plat of HUNNELL ACRE TRACTS located in a portion of the South 297.45 feet of the Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) of Section Four (4), Township Eighteen (18) South, Range Twelve (12) East, Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the South line of said Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter of Section Four (4) which bears South 89° 47' 55" East a distance of 170.00 feet from the Southwest corner of said Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) of Section Four(4): thence following a line 170.00 feet East of and parallel with the West line of said Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) North 00° 06' 47" West a distance of 247.45 feet; thence North 89° 47' 55" West a distance of 100.00 feet; thence North 00° 06' 47" West a distance of 50.00 feet to a point on the North line of the South 297.45 feet of said Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter NW 1/4 SE 1/4 SE 1/4) of Section Four(4); thence following the North line of the said South 297.45 feet South 89° 47' 55" East a distance of 479.15 feet; thence following the West line of Pieratt/Thompson property as described in Volume 339, Page 392 of Deschutes County Deed Records South 00° 10' 08" East a distance of 297.45 feet to a point on the South line of the Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) of Section Four (4); thence following the South line of said Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) of Section (4) North 89° 47' 55" West a distance of 379.44 feet to the Point of Beginning, the terminus of this description.

EXHIBIT B

EXHIBIT C

TAX LOT 1702

The Easterly 110 feet of the following described parcel of real property located Northwest One-Quarter, Southeast One-Quarter, Southeast One-Quarter (NW1/4 SE 1/4 SE 1/4) of Section 4, Township 18 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon;

Commencing at the Southeast corner of said Section 4; thence North 89°56'17" West along the South line of said section, a distance of 660.08 feet; thence North 00°10'07" West 661.15 feet to a 5/8" iron rod being the true point of beginning; thence North 89°47'55" West 659.44 feet; thence North 00°06'46" West 297.45 feet to a 1/2" iron rod; thence South 89°46'36" East 659.15 feet to a 5/8" iron rod; thence South 00°10'07" East 297.45 feet to the point of beginning, and there terminating.

EXHIBIT C

TAX LOT 1703

A portion of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW 1/4 SE 1/4 SE 1/4) of Section Four (4), TOWNSHIP EIGHTEEN (18) SOUTH, RANGE TWELVE (12) EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon, more particularly described as follows:

Beginning at a point which is the Northeast corner of said Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW 1/4 SE 1/4 SE 1/4) of said Section; thence North 89° 37' 16" West along the North line of said Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW 1/4 SE 1/4 SE 1/4), 478.81 feet to the True Point of Beginning, said true point of beginning also being the Northwest corner of that tract of land as described in Book 333, Page 192, Deed Records; thence South 03° 01' 20" West along the Westerly line of that parcel of land described in Book 333, Page 192, Deed Records, 365.63 feet to the Southwest corner thereof, said point also being on the North line of that parcel of land as described in Book 283, Page 305, Deed Records; thence North 89° 47' 55" West along the Northerly line of that parcel of land described in Book 283, Page 305, Deed Records, 160.00 feet to the Northwest corner thereof, said point also lying on the Westerly line of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW 1/4 SE 1/4 SE 1/4) of said Section 4; thence North 00° 06' 46" West along said Westerly line, 365.75 feet to the Northwest corner of said Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW 1/4 SE 1/4 SE 1/4); thence South 89° 37' 16" East along the Northerly line of said Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW 1/4 SE 1/4 SE 1/4), 180.00 feet to the True Point of Beginning.

EXCEPTING THEREFROM:

A parcel of land located in a portion of Tracts Seven (7) and Eight (8), Block Three (3) of the unrecorded Plat of HUNNELL ACRE TRACTS located in a portion of the Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4)of Section Four (4), Township Eighteen (18) South, Range Twelve (12), Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the Northwest corner of said Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) of Section Four (4); thence following the North line of said Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) South 89° 37' 16" East a distance of 70.00 feet; thence South 00° 06' 48" East a distance of 365.28 feet to a point on the North line of the South 297.45 feet of the Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) of Section Four(4); thence following said North line North 89° 47' 55" West a distance of 50.00 feet; thence following a line 20.00 feet East of and parallel with the West line of the Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) of Section Four (4) North 00° 06' 47" West a distance of 130.00 feet; thence North89° 47' 55" West a distance of 20.00 feet to a point on the West line of the Northwest One-Quarter of the Southeast One-Quarter of the Southeast One-Quarter (NW 1/4 SE 1/4 SE 1/4) of Section Four (4); thence following the West line of the Northwest One-Quarter of the Southeast One-Quarter of the Southeast 1/4 (NW 1/4 SE 1/4 SE 1/4) of Section Four (4) North 00° 06' 47" West a distance of 235.49 feet to the Point of Beginning, the terminus of this description.

EXHIBIT D

ORDINANCE NO. NS-1612

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL TO RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM, Urban Medium Density Residential to RH, Urban High Density Residential.

> 106 NE Wall Street, the northeast corner of the intersection of Wall Street and Colorado Avenue; Lots 1 and 2, Block 7, except the north 38 feet of the east half of Lot 2, Deschutes; 17-12-32CD, Tax Lot 11800

Read for the first time the 6th day of April, 1994.

Read for the second time the 20th day of April, 1994.

Placed upon its passage the 20th of April, 1994.

YES: 6 NO: 0

Authenticated by the Mayor the 20th day of April, 1994.

John Wujack

John Wujack, Mayor

ATTEST:

Patri S. Sure

Recorder, City of Bend

ORDINANCE NO. NS-1613

AN ORDINANCE AMENDING ORDINANCE NO. NS-1399 TO ELIMINATE THE REQUIREMENT THAT PERSONS WHO ADDRESS THE COMMISSION MUST GIVE THEIR ADDRESS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 1.122 is amended to read:

> 1.122 Manner of Addressing Commission. Each person addressing the Commission shall **first write his or her name and address on a document provided for that purpose, shall then state his or her name in an audible tone of voice, and shall also state whether he or she is a resident of the City of Bend** [give his or her name and address in an audible tone of voice] for the record. All remarks shall be addressed to the Commission as a body and not to any particular member. No person, other than the Commissioners and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Commission, without the permission of the presiding officer. No question shall be asked a Commissioner except through the presiding officer, who may give permission in an orderly fashion.

Read for the first time this 20th day of April, 1994.

Read for the second time this 4th day of May, 1994.

Placed upon its passage this 4th day of May, 1994.

YES: 7 NO: 0

Authenticated by the Mayor this 4th day of May, 1994.

John Wujack

John Wujack, MAYOR

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

ORDINANCE NO. NS-1614

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO ALLOW MIXED COMMERCIAL USES AND APARTMENTS IN THE NEIGHBORHOOD COMMERCIAL, CONVENIENCE COMMERCIAL, LIMITED COMMERCIAL, AND CENTRAL BUSINESS ZONING DISTRICTS.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. A new section (g) is added to Section 10.10.13(2) to read:

(g) **Dwelling units that are above or behind a permitted commercial use and secondary to that commercial use.**

Section 2. Section 10.10.13(3) is amended to read as follows:

(3) Conditional Uses. The following conditional uses may be permitted subject to [a conditional use permit and] the provisions of Section 29.

[(a) Residential dwelling units not on the ground floor of a building.]

Section 3. Section 10.10.14(3)(a) is amended to read as follows:

(a) **New** residential dwelling units, excluding mobile home parks, **that are not a part of an approved commercial use.**

Section 4. A new section (tt) is added to Section 10.10.15(2) to read:

(tt) **Dwelling units that are above or behind a permitted commercial use and secondary to that commercial use.**

Section 5. Section 10.10.15(3)(a) is amended to read as follows;

(a) New residential dwelling units, excluding mobile home parks, **that are not a part of an approved commercial use.**

Section 6. A new section (j) is added to Section 10.10.18(2) to read:

(j) **Dwelling units that are above the ground floor of a permitted commercial use and secondary to that commercial use.**

Section 7. Section 10.10.27(6)(b) is amended to read as follows:

(b) Exceptions to front yard requirements: If there are dwellings on both abutting lots with front yards less than required depth for the district, the front yard for the lot need not exceed the average front yard of the abutting dwellings. if there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the front yard need not exceed a depth one-half way between the depth of the front yard on the abutting lot and the required front yard depth.

Residential use in Commercial or Industrial Zones: Any structure in a "C" or "I" Zone designed and used for residential purposes shall comply with the requirements of the RH Zone. Structure in any "C" or "I" Zone which contain dwelling units not on the ground floor need not comply with **RH** residential zone yard, **height, landscaping, and storage** requirements[,]. [p]Provided, **however, that** such structures comply with **the motor vehicle and bicycle parking requirements and**

with other applicable codes or regulations as may exist concerning the health and safety aspects of the dwelling units.

Read for the first time the 4th day of May, 1994.

Read for the second time the 18th day of May, 1994.

Placed upon its passage the 18th day of May, 1994.

YES 6 NO 0

Authenticated by the Mayor the 18th day of May, 1994

John Wujack

John Wujack, Mayor

ATTEST:

Patri S. Stue

Recorder of the City of Bend

ORDINANCE NO. NS-1615

AN ORDINANCE AMENDING ORDINANCE NO. NS-1375 TO CHANGE DEFINITION OF TAX ADMINISTRATOR.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 7.010(10) is amended to read:

(10) "Tax Administrator" means the City **Treasurer** [Recorder] of the City of Bend.

Read for the first time the 4th day of May, 1994.

Read for the second time the 18th day of May, 1994.

Placed upon its passage the 18th day of May, 1994.

YES: 6 NO: 0

Authenticated by the Mayor this 18th day of May, 1994.

John Wujack

John Wujack, MAYOR

ATTEST:

Patricia Stell

Recorder of the City of Bend

ORDINANCE NO. NS-1616

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO CHANGE THE FRONT YARD SETBACK DISTANCE IN THE MEDIUM DENSITY (RM) ZONE AND ADD LANDSCAPING PERFORMANCE STANDARDS

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. Sections 10.10.24(5)(e), front yard parking standards is amended as follows:

(e) Parking, Front Yard. [~~Unless otherwise provided, required parking and loading spaces for multifamily dwellings, commercial and industrial use shall not be located in a required front yard, but such space may be located within a required side or rear yard.~~]

All paving for multi-family, commercial and industrial uses shall not be located within the required front yard setback area except vehicular driveways. Such driveways for multi-family shall not exceed twenty-four (24) feet in width and thirty-five (35) feet in width for commercial and industrial uses. Such paving for parking spaces may be located within a required side or rear yard.

In Urban Medium Density Residential (RM) zone, the required front yard setback distance for parking maneuvering and loading areas may be reduced up to a maximum of ten feet by the Approval Authority if the development includes features described in Section 10.10.23(10) of this Code.

Section 2. A new subsection (10) is added to Section 23. Site Plan Approval as follows:

(10) Performance Standards for Reduction in RM zone front yard setback. The Approval Authority may grant a reduction of up to a maximum of ten feet in the required front yard setback for parking and maneuvering based on the standards below. This setback reduction shall not apply to buildings or structures.

(a) Protection of Natural Features. A reduction in the parking setback distance may be granted when minimal disturbance will be made to important existing trees, rock outcrops and native vegetation over the entire site. Tree protection means preserving the root zone and existing canopy by International Society of Arborists Standards (available at the City of Bend Planning Department counter). The amount of the reduction relates to both the amount of protection and the importance of features on the site.

Protection	Paving Setback Reduction
Protect 100% of the important natural vegetation over the entire site	2'-0"
Protect 75% of the important natural vegetation over the entire site	1'-6"
Protect 50% of the important natural vegetation over the entire site	1'-0"
Protect 25% of the important natural vegetation over the entire site	6"

(b) Exceeding the Minimum Planting Requirements. A reduction in the parking setback distance may be granted if all required trees have a larger tree diameter than is required. The landscape plan must specify the location, size and species of the trees.

Tree Diameter	Paving Setback Reduction
All new trees planted have a diameter of at least 4"	2'-0"
All new trees planted have a diameter of at least 3½"	1'-6"
All new trees planted have a diameter of at least 3"	1'-0"
All new trees planted have a diameter of at least 2½"	6"

(c) Planting buffer between street and parking. A reduction in the parking setback distance may be granted when the site plan includes a dense planting buffer between the street and parking area. The landscape plan must specify the location, size and species of the trees. A clear site line from the driveway to the street must be maintained.

Percentage of Visual Blockage	Paving Setback Reduction
100% of the parking lot will be blocked by plantings in the setback within 5 years of project completion	2'-0"

85% of the parking lot will be blocked by plantings in the setback within 5 years of project completion	1'-6"
70% of the parking lot will be blocked by plantings in the setback within 5 years of project completion	1'-0"
55% of the parking lot will be blocked by plantings in the setback within 5 years of project completion	6"

Size of Shrubs Planted in the Setback	Paving Setback Reduction
100% of new shrubs planted in the setback area are bought in 5 gallon containers	2'-0"
75% of new shrubs planted in the setback area are bought in 5 gallon containers	1'-6"
50% of new shrubs planted in the setback area are bought in 5 gallon containers	1'-0"
25% of new shrubs planted in the setback area are bought in 5 gallon containers	6"

(d) Height buffer between street and parking. A reduction in the parking setback distance may be granted when the site plan includes a berm in the setback. A clear site line from the driveway to the street must be maintained.

Berm in Setback	Paving Setback Reduction
A 3'-0" high berm is provided in the setback area	2'-0"
A 2'-6" high berm is provided in the setback area	1'-6"
A 2'-0" high berm is provided in the setback area	1'-0"
A 1'-6" high berm is provided in the setback area	6"

(e) Reduction in the Amount of Impervious Surface. A reduction in the parking setback distance may be granted when it is shown that the percentage of impervious surfaces to planting is reduced. Impervious surface refers to building footprint, patios, porches, decks, walks and paving areas.

% of Impervious Surface to % of Planting	Paving Setback Reduction
Impervious surface is 50% of lot area or less	2'-0"
Impervious surface is 60% of lot area or less	1'-6"
Impervious surface is 70% of lot area or less	1'-0"
Impervious surface is 80% of lot area or less	6"

(f) Use of Open Pavers. A reduction in the parking setback distance may be granted when open pavers are utilized for the paved area. These pavers must be able to retain all water on-site without causing pooling and include a ground water filtering system.

Percent of Open Pavers Used	Paving Setback Reduction
Open Pavers are used for 100% of the site paving	2'-0"
Open Pavers are used for 85% of the site paving	1'-6"
Open Pavers are used for 70% of the site paving	1'-0"
Open Pavers are used for 55% of the site paving	6"

Read for the first time the 18th day of May, 1994.

Read for the second time the 1st day of June, 1994.

Placed upon its passage the 1st day of June, 1994.

YES: 4 NO: 1

Authenticated by the Mayor the 1st day of June, 1994.

John Wujack, Mayor

ATTEST:

Patricia S. Saul
Recorder of the City of Bend

ORDINANCE NO. NS-1617

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO CHANGE REGULATION OF STRUCTURES IN AN FP, FLOOD PLAIN ZONE TO BE IN COMPLIANCE WITH STATE REGULATIONS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 22 (7) (a) 1., Residential Construction, is amended as follows:

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated [to or] **1 foot** above base flood elevation.

Read for the first time this 1st day of June, 1994.

Read for the second time this 15th day of June, 1994.

Placed upon its passage this 15th day of June, 1994.

YES: 6 NO: 0

Submitted to and authenticated by the Mayor this 15th day of June, 1994.

John Wujack, Mayor

ATTEST:

Patricia Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1618

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE LOT REQUIREMENTS FOR LOTS IN THE URBAN MEDIUM DENSITY RESIDENTIAL ZONE.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. Section 11. Urban Medium Density Residential Zone or RM zone is amended to read:

(5) Lot Requirements. The following lot requirements shall be observed:

(a) Lot Area: Every lot shall have a minimum area of ~~5,000~~ **4,500** square feet for the first unit plus the minimum unit square footage based upon the number of bedrooms per dwelling unit in the following table:

Studio or efficiency	~~750~~	**500**	square feet
1 bedroom	~~1,000~~	**600**	square feet
2 bedroom	~~1,500~~	**1,000**	square feet
3 bedroom	~~2,250~~	**1,500**	square feet
4 bedroom	~~2,500~~	**2,000**	square feet

provided that the overall density shall not exceed one dwelling unit per 2,000 square feet of lot area. A lot having a width of less than 50 feet and an area of less than ~~5,000~~ **4,500** square feet of record at the time of the passage of this ordinance, may be occupied by one single family dwelling provided that all the yard requirements of this section are observed.

Read for the first time the 17th day of August, 1994.

Read for the second time the 7th day of September, 1994.

Placed upon its passage the 7th of September, 1994.

YES: 7 NO: 0

Approved by the Mayor the 7th day of September, 1994.

John R. Wyatt
Mayor

ATTEST:

Patricia S. Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1619

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO INCLUDE DUPLEXES AND TRI-PLEXES IN THE SITE PLAN REVIEW PROCESS.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. Section 23. Site Plan Approval is amended to read:

(3) Site Plan Requirement. In all zones, except for a single family, ~~duplex or triplex~~ unit on one lot, all new uses, buildings, outdoor storage or sales areas and parking lots or alterations thereof shall be subject to the provisions of this section. Site plan approval shall not be required where a proposed alteration of an existing building does not exceed 25% of the original structure unless the Planning Director finds the original structure or proposed alteration does not meet the requirements of this ordinance or other ordinances of the City of Bend.

Read for the first time the 17th day of August, 1994.

Read for the second time the 7th day of September, 1994.

Placed upon its passage the 7th day of September, 1994.

YES: 7 NO: 0

Approved by the Mayor the 7th day of September, 1994.

John L. Wyatt
Mayor

ATTEST:

Patricia S. Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1620

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL ZONE TO RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. The Bend City Commission has held a public hearing, has adopted the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change.

Section 2. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM, Urban Medium Density Residential to RH, Urban High Density Residential:

A 10,500 square feet area on the north side of NE Franklin Avenue, between NE 4th Street and NE 5th Street, and more particularly described as follows:

Lot 14 and the west half of Lot 13, Block 26, of Center Addition to Bend;
17-12-33CB, tax lot 6900

Read for the first time the 7th day of September, 1994.

Read for the second time the 21st day of September, 1994.

Placed upon its passage the 21st day of September, 1994.

YES: 6 NO: 0

Authenticated by the Mayor the 21st day of September, 1994.

John R. Wright
Mayor

ATTEST:

Patricia S. Stu
Recorder of the City of Bend

ORDINANCE NO. NS-1621

AN ORDINANCE ESTABLISHING UNIFORM PROCEDURE FOR CONDUCTING INVENTORY SEARCHES.

WHEREAS, a recent Oregon Court of Appeals case now requires that inventory searches be conducted pursuant to established departmental procedure enacted by the legislative body of the local government, and that the procedure leaves nothing to individual discretion and that the procedure is followed consistently by all, and

WHEREAS, inventory searches typically involve towed vehicles, prisoners' property and found property, and

WHEREAS, inventory searches are limited intrusions to identify ownership, and safeguard property, and

WHEREAS, all such searches shall be conducted as soon as practicable and the results recorded on the appropriate report forms,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Definition.

Inventory searches are those searches done for the purpose of safeguarding and itemizing property and not for the purpose of discovering evidence.

Section 2. Vehicle Inventories.

(1) All vehicles seized as evidence, impounded or recovered shall be inventoried.

(2) Glove boxes, trunks and similar kinds of storage compartments shall be searched for items of value and for information as to ownership when they are open or unlocked, or if the keys are readily accessible.

(3) Closed containers shall not be searched unless it is obvious that a hazardous material is present.

Section 3. Booking Inventories.

(1) Booking inventories of prisoner property shall be done as soon as the prisoner is safely inside the booking room. This applies to all bookings, including "cite and release" and "en-route" to another agency.

(2) Complete prisoner searches shall be done by a member of the same sex.

(3) All personal property, except a single layer of outer clothing shall be collected and stored in an appropriate prisoner property locker. All weapons, contraband and other property shall be removed and placed in the property room until lawful disposition is determined.

(4) Bookings initially done at another jail facility shall be accomplished according to that facility's written procedures. If that facility has no written procedures, then the booking shall be done as closely as possible to Section 3 of this ordinance.

Section 5. Found Property Inventories.

(1) All "found" property (property received by Bend Police Department for safekeeping or storage, other than motor vehicle and booking inventories) shall be inventoried.

(2) Found property inventories shall be limited to a general inventory of the item(s) and its content(s).

(3) Found property inventories shall, however, be thorough enough to determine:

(a) Any evidence of the identity of the owner, and

(b) That no hazardous, dangerous or noxious material is stored in the property room.

Section 6. Emergency Clause.

This ordinance is necessary for the preservation of the City's safety because a recent decision of the Oregon Court of Appeals requires that inventory searches be mandated by the City's governing body in order to be effective. Inventory searches are a necessary and standard part of police procedure. Therefore, an emergency is declared to exist and this ordinance shall take effect upon its passage by the City Commission.

Read for the first time this 7th day of September, 1994.

Read for the second time this 21st day of September, 1994.

Placed upon its passage this 21st day of September, 1994.

YES: 6 NO: 0

Authenticated by the Mayor this 21st day of September, 1994.

John R. Wyatt
MAYOR

ATTEST:

Patricia S. Sue
City Recorder

ORDINANCE NO. NS-1622

AN ORDINANCE CHANGING THE NAME OF A PORTION OF STUDIO ROAD WITHIN THE CITY OF BEND, OREGON.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of Studio Road be changed to Butler Market Road for that portion described as west of NE 8th Street to NE 3rd Street as shown on Exhibit A.

Section 2. The effective date for the renaming of this street shall be 30 days following the adoption of this ordinance.

Read for the first time the 19th day of October, 1994.

Read for the second time the 2nd day of November, 1994.

Placed upon its passage the 2nd of November, 1994.

YES: 6 NO: 0

Authenticated by the Mayor the 2nd day of November, 1994.

John P. Wyjack
Mayor

ATTEST:

Patricia S. Stull
Recorder of the City of Bend

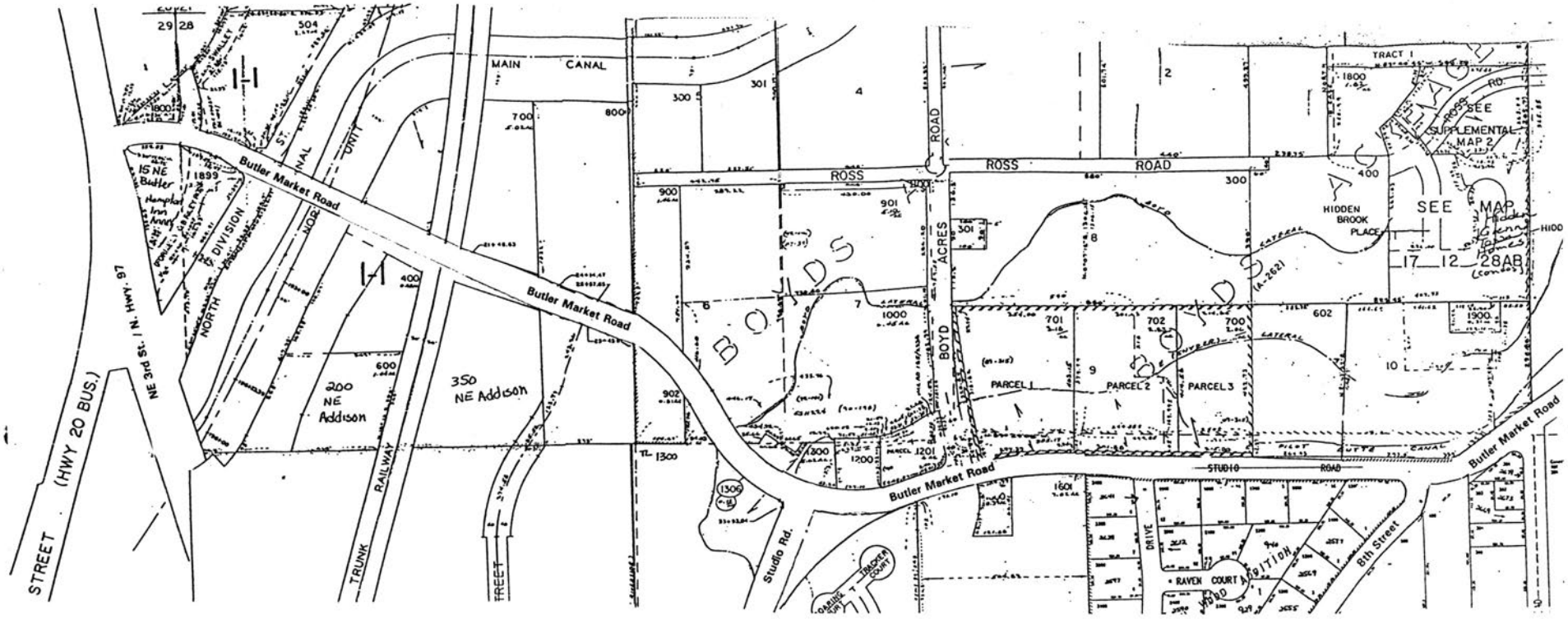

MAIN CANAL
Butler Market Road
ROSS ROAD
BOYD ACRES
BOYDS ROAD
HIDDEN BROOK PLACE
SEE SUPPLEMENTAL MAP 2
SEE MAP
15 NE Butler
200 NE Addison
350 NE Addison
PARCEL 1
PARCEL 2
PARCEL 3
STUDIO ROAD
Studio Rd.
8th Street
RAVEN COURT ADDITION
NE 3rd St. (HWY 20 BUS.)
TRUNK RAILWAY
NORTH DIVISION

Exhibit A

ORDINANCE NO. NS-1623

AN ORDINANCE EXTENDING THE CASCADE NATURAL GAS CORPORATION FRANCHISE.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The nonexclusive franchise granted to Cascade Natural Gas Corporation by City of Bend Ordinance No. NS-1034, as amended, shall be extended on the terms and conditions provided in this ordinance. Except as expressly changed by this ordinance, all of the terms and conditions of Ordinance No. NS-1034, as amended, shall remain in full force and effect.

Section 2. The nonexclusive franchise granted to Cascade Natural Gas Corporation by Ordinance No. NS-1034, as amended, shall be extended to October 1, 2014.

Section 3. The franchise fee provided in Section 9 of Ordinance No. NS-1034, as amended, shall continue to be 4½% until October 1, 1999, when the franchise fee shall be reviewed by City and grantee. The review shall consider the franchise fees for City's other utility franchises or license fees received by City; and comparable franchise fees paid by grantee to other cities. After review the franchise fee may be increased (but not decreased) as agreed by the City and grantee. If City and grantee are unable to agree, then each shall appoint one person to serve as arbitrators and the decision of the two arbitrators shall be final and binding. If the two arbitrators cannot agree, then they shall appoint a third person as an arbitrator, and the decision of a majority of the three arbitrators shall be final and binding. After the October 1, 1999 franchise fee review, the franchise fee shall be reviewed every five years in the same manner.

Section 4. In the event federal, state or other funds are available in whole or in part for utility relocating purposes, City shall apply for such funds if grantee specifically requests the City to do so. Grantee will be reimbursed for relocating costs to the extent any such funds are actually obtained by City for this purpose.

Section 5. The requirement in Section 8 of Ordinance NS-1034, as amended, that grantee file with the City Manager a map showing the size of its pipes and extensions is deleted. The map need only show the location of grantee's pipes and extensions.

Section 6. The insurance requirement of Section 10 of Ordinance NS-1034, as amended, is changed to require that the policy limits for grantee's bodily injury and property damage liability insurance shall be $1,000,000 combined single limit.

Read for the first time this 16th day of November, 1994.

Read for the second time this 7th day of December, 1994.

Placed upon its passage this 7th day of December, 1994.

YES: 6 NO: 0

Authenticated by the mayor this 7th day of December, 1994.

John L. Wyatt
Mayor

ATTEST:

Patricia S. Stell
City Recorder

ORDINANCE NO. NS-1624

AN ORDINANCE AMENDING THE BEND UNIFORM TRAFFIC CODE.

Section 1. Bend Uniform Traffic Code Section 6.900 is amended to read:

6.900 Parking Penalties. A violation of sections 6.150 to 6.285 is punishable by:

2-Hour Parking Violation		
First overtime		$5.00
Each additional overtime unit (2 hours)		$10.00
If not paid within [5] **10** days of the ticket	[$15.00]	**$25.00**
Vehicles for Sale		$25.00
If not paid within [5] **10** days of the ticket		$50.00
All Other Parking Violations		$15.00
If not paid within [5] **10** days of the ticket	[$30.00]	**$40.00**

Read for the first time this 16th day of November, 1994.

Read for the second time this 7th day of December, 1994.

Placed upon its passage this 7th day of December, 1994.

YES: 6 NO: 0

Authenticated by the Mayor this 7th day of December, 1994.

John R. Wright
Mayor

ATTEST:

Patricia Stell
City Recorder

ORDINANCE NO. NS-1625

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF BEND, NO. NS-1178.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 4 of Ordinance No. NS-1178 is amended by adding new definitions, to read:

Section 4. Definitions.

Open space: Any parcel or area of land or water set aside, designed or reserved for the public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Riparian area: The riparian area is a terrestrial zone where annual and intermittent water, a high water table and wet soils influence vegetation and microclimate.

Section 2. Section 22A of Ordinance No. NW-1178 is amended by the following changes:

Section 22A. Deschutes River Corridor Design Review Combining Zone.

(1) Purpose. It is the purpose of the Deschutes River Corridor Design Review Zone to ensure compliance with the objectives of this Ordinance and the goals and policies relating to the Deschutes River in the Bend Area General Plan. The purpose shall also be to:

(a) Recognize and respect the unusual natural beauty and character of the Deschutes River.

(b) Conserve and enhance the existing riparian zone along the Deschutes River.

(c) Allow the community flexibility in reviewing development proposals within the Areas of Special Interest that are designated on the Bend Area General Plan.

(d) Maintain the scenic quality of the canyon and rimrock areas of the Deschutes River.

(e) Conserve and enhance property values.

(f) Preserve, protect and enhance water quality.

(g) Encourage development, preservation and enhancement of reasonable public access to the river for recreational use and visual enjoyment.

[In considering a design plan the Bend Urban Area Planning Commission shall take into account the impact of the proposed development on nearby properties, on the capacity of the street system, on land values and development potential of the area, and on the appearance of the street and community.]

(2) The following areas and uses are exempt from the Deschutes River Design Review process:

(a) Public streets and utility facilities existing as of the date of adoption of this ordinance. Notwithstanding anything to the contrary in this ordinance, a variance may be granted to the mandatory 40 foot setback for future public streets and utility facilities.

(b) Irrigation facilities, canals and flumes existing as of the date of adoption of this ordinance.

(c) The existing [DAW and] Korpine [lumber] mill operation on the east side of the Deschutes River.

(3) Design Review Procedure. All new development, structures, additions and exterior alterations to structures, including outside storage and off-street parking lots within the Deschutes River Corridor, are subject to a design review process.

(a) Prior to filing a design review application, the applicant shall confer with the Planning Department concerning the requirements of formal application.

(b) The design review application shall be filed on a form provided by the City Planning Department and shall be accompanied by drawings and information as specified by the Planning Department. Copies of the plan shall be submitted and such additional information as is deemed necessary for the Site Plan Committee or Bend Urban Area Planning Commission to adequately review the applications.

(c) The Bend Urban Area Planning Commission shall approve, approve with conditions, or disapprove the design plan. [In approving the plan, the Bend Urban Area Planning Commission shall find that all provisions of this ordinance are complied with and that all buildings and facilities, access points, parking loading facilities, lighting, and walls or fences are so arranged that traffic congestion is avoided and pedestrian and vehicular safety and welfare are protected, and there will be minimal adverse effect on surrounding property and the river corridor.] The decision of the Bend Urban Area Planning Commission shall be final unless appealed in accordance with the City of Bend's land use procedures.

(d) To approve a design plan the Bend Urban Area Planning Commission must find compliance with the provisions of this ordinance.

(4) Site Plan Committee. The Site Plan Committee, as designated in Section 23 (3), shall review a site plan application subject to design review on its technical merits and submit recommendations for approval, conditional approval, or rejection to the Bend Urban Area Planning Commission [for a proposed development]. The **Commission** decision shall be based on the site plan criteria, City policies, and standards.

(5) Minimum Standards. [All development] [w]Within the Deschutes River Corridor [shall meet] the following minimum standards [for development] **shall apply:**

(a) Building **and Parking** Setbacks.

(A) **100 foot setback area.** For the areas described below, the setback for all new [development] **buildings, parking lots and loading areas** shall be a minimum of 100 feet from the ordinary high water mark unless the [applicant can demonstrate that a lesser setback is warranted, due to lot size and shape, topography, preservation of natural vegetation, view corridors, and subject to the criteria in Section 6. The term "new development" shall not include rebuilding an existing structure provided that the rebuilt structure is comparable in size, profile, use and location to the structure that previously existed] **Bend Urban Area Planning Commission approves a lesser setback.** In no case shall the setback be less than 40 feet from the ordinary high water mark of the Deschutes River.

(i) The east and west bank from the Arizona /Commerce Street line to the southern boundary of the Bend Area General Plan map;

(ii) The east bank from the southern property line of Magill's Landing Subdivision to the northern property line of the Bend Riverside Motel;

(iii) The east bank from the southern property line of Sawyer Park to the southern boundary of the Rimrock West Subdivision;

(iv) The east and west banks from the northern boundary of the Rimrock West subdivision to the northern boundary of the Bend Area General Plan map and

(v) The west bank north of the Park District property known as "Flume Park' to the southern boundary of the Rimrock West subdivision.

After the applicant has demonstrated through design review that the project provides at least the following:

1. protection of water quality, and fish and wildlife habitat;

2. the improvement or restoration of riverfront riparian areas by the creation of new riparian vegetation areas or by improvements to existing riverfront riparian areas through appropriate plantings, and;

3. the provision of open space along the riverfront:

the Bend Urban Area Planning Commission may approve a lesser setback.

(B) **Commercial Property.** For all existing commercially zoned property within the Deschutes River Corridor in existence upon the adoption of this ordinance, the setback for all [structures] **buildings, parking lots, and loading areas** shall be 30 feet from the ordinary high water mark of the Deschutes River.

[b](C) Other Areas. For the areas not described in (a) (A) or (B) above, all [structures] **buildings, parking lots, and loading areas** shall be 40 feet from the ordinary high water mark of the Deschutes River. In no case shall the setback be less than 40 feet from the ordinary high water mark of the Deschutes River. [This setback restriction shall not prohibit rebuilding an existing structure provided that the rebuilt structure is comparable in size, profile, use and location to the structure that previously existed.]

(b) Features in Building Setback Area. Within the 30, 40 and 100 foot building setback area, required in (a) (A), (B) and (C) above, the Bend Urban Area Planning Commission may approve features to enhance or support public use. Such features may include sidewalks, trails, utility facilities, streets and bridges crossing the river, boardwalks, decks, plazas, outdoor cafe seating areas, utilities, lights, bike racks, trash and recycling receptacles, furniture, bank stabilization structures, fences, art work, stairs, bike and pedestrian bridges, boat launch facilities, and vendor carts as defined by Bend Code Section 7.516. The placement and uses shall be subject to the criteria in Section 6.

(c) Rebuilding of Existing Structures. This setback restriction shall not prohibit rebuilding an existing structure provided that the rebuilt structure is comparable in size, profile, use and location to the structure that previously existed. The term "new development" shall not include rebuilding an existing structure provided that the rebuilt structure is comparable in size, profile, use and location to the structure that previously existed.

[c] (d) Building Heights. Maximum structure height shall be limited to 30 feet at the minimum setback line. The Bend Urban Area Planning Commission may allow increases in building heights up to the allowed height in the underlying zone the

farther the building sets back from the river. The Bend Urban Area Planning Commission may limit building height the closer to the river a building is allowed. The building height shall be measured from the lowest natural grade facing the river to the highest measurable point on or projecting from the roof of the structure.

(6) Site and Design Review Criteria. In addition to the minimum standards above, the Bend Urban Area Planning Commission shall review the development using the following design criteria:

(a) Conservation of natural features. Major rock outcrops, stands of trees, **riparian areas**, or other prominent natural features are an important part of the visual character and quality of the community. The Bend Urban Area Planning Commission shall review the applicant's proposal for impacts on these resources and may limit the amount of removal, require additional screening, or moving or reducing in size the development addition or structure in order to preserve to the greatest extent possible, existing natural features.

(b) Compatibility with existing area. The Bend Urban Area Planning Commission shall consider the relationship of the proposed development with the existing surroundings, in terms of building bulk, height, location, separation, shape, parking areas, lighting, fences, landscaping, open space, visual and physical corridors to the river and adjacent land use. [The Bend Urban Area Planning Commission may establish increased setbacks, limitations of building heights, and limitations on the bulk and length of buildings, limitations on lighting, landscaping, fences, size and shape of windows facing the river, size and location of parking, and outdoor storage areas in order to carry out the purpose of this ordinance.]

(c) Colors and Materials. The Bend Urban Area Planning Commission shall consider colors and materials. The Bend Urban Area Planning Commission may require new structures and additions to existing structures to be finished in muted earth tones that blend with and reduce contrast with the surrounding vegetation and landscape of the building site or colors that are compatible with adjacent buildings.

(d) No large areas, including roofs, shall be finished with bright or reflective materials. Metal roofing material is permitted if it is non-reflective and of a color which blends with the surrounding vegetation and landscape.

(e) The Bend Urban Area Planning Commission may establish increased setbacks, limitations of building heights, and limitations on the bulk and length of buildings, limitations on lighting, landscaping, fences, size and shape of windows facing the river, size and location of parking, and outdoor storage areas and any other improvement or use listed in 5 (a) and (b) above in order to carry out the purpose of this ordinance.

(f) For projects proposing development within the setback area, the Bend Urban Area Planning Commission may consider the degree to which the project provides public access along the riverfront, and may require the dedication of public access on an individualized determination that the required access is reasonably related to the project, and that the required dedication is also roughly proportional to the impact of the proposed project.

(g) For projects incorporating a setback less than 100 feet the BUAPC may required enhanced site landscaping, minimum corridors between buildings, variations in building setbacks, size or bulk of facades and may impose any other conditions of approval reasonably required to meet the purposes of this ordinance.

Read for the first time the 7th day of December, 1994.

Read for the second time the 21st day of December, 1994.

Placed upon its passage the 21st day of December, 1994.

YES: 6 NO: 1

Approved by the Mayor the 21st day of December, 1994.

Mayor

ATTEST:

Recorder of the City of Bend

FINDINGS
(Ordinance No. NS-1625)

The Bend City Commission finds:

Section 1.

1.1 That the Bend Urban Area Planning Commission (BUAPC) has reviewed, sought public involvement, and held a hearing on proposed amendments to Section 22A of Bend Zoning Ordinance No. NS-1178 as requested by the City Commission:

1.2 On September 12 and 26; October 10 and November 14, 1994 the BUAPC held work sessions that were open to the public and noticed to various interested parties on the proposed amendments.

1.3 On October 24, 1994 BUAPC held a hearing on the proposed amendments after giving notice to all property owners along the river and the public through the Bend Bulletin.

1.4 The BUAPC finalized its discussion and review of the proposed amendments and on November 14, 1994 recommended the proposed changes to the Bend City Commission and the Deschutes County Board of Commissioners.

Section 2. Comprehensive Plan Basis

2.1 The City finds that the amendments to the river corridor ordinance are amendments to an acknowledged land use regulation. No change in the City's acknowledged comprehensive plan is included as a part of the amendments. In accordance with ORS 197.835(5)(b), the City finds that its comprehensive plan contains numerous specific policies or other provisions which provide the basis for the amendments to the river corridor ordinance. As a result, the statewide planning goals are not applicable to these amendments. The plan policies or provisions which provide the basis for the amendments to the river corridor ordinance include the following:

1. "To conserve the existing riparian zone along the Deschutes River." (pg 13)

2. "To provide public access to the scenic and attractive resource [the Deschutes River]." (pg 13)

3. "To provide more park and trails along the river." (pg 13)

4. "To allow the community flexibility in reviewing development proposals within the areas of special interest [the Deschutes River] that would award superior design; that grant public access and dedication of land to the public; that grant scenic or development easements to a public body or recognize conservation organization; and still maintains the scenic resources and protects and enhances the wildlife habitat or that can be judged to be a reasonable trade-off in values for the public." (pg 13)

5. "The City and County shall review development proposals that include land in areas designed as areas of special interest for the public benefit that can be gained under preservation or development. The City and County may allow those develop- ments that are not subject to natural hazards; that would not inflict irreversible harm to the riparian zone; that would enhance public open space, parks and access; that have excellence of design, provide via easement or fee title access for the public to the river, either as park or trails; and carry out the intent of the Plan to enhance the variety and livability of the Bend Urban Area." (pg. 13-14)

6. "All development along the Deschutes River should be subject to design review in order to protect this priceless community asset." (pg 66)

7. "The Deschutes River flowing through the community represents one of the outstanding recreational opportunities in the community. Several parks have been developed along the river, and continuing community efforts shall be made to acquire property as it becomes available. In addition, the Plan recommends the development of a trail system along the river wherever possible in an effort to provide public access to this outstanding natural feature." (pg 56)

8. "The Deschutes River represents a significant sensitive area within the Urban Growth Boundary, and the utmost care should be taken in any development that occurs so that the public is benefitted by any changes that may occur in the existing character of the river or riparian zone." (pg 14)
9. "Ensure the long-term protection and enhancement of wildlife, sensitive riparian habitat, and natural plant and animal communities along the Deschutes River and its tributaries." (pg 5, Deschutes River Corridor Goals and Policies)

2.2 As explained below for each amended section of the river corridor ordinance, the City finds that the comprehensive plan policies, goals and provisions referenced in Paragraph 2.1, above, provide the basis for the amendments to the river

corridor ordinance (ORS 197.835(5)(b)).

Amendments to Section 2

2.3 The City finds that the amendments adding two new purposes to the river corridor ordinance relating to water quality protection and the encouragement of public access are based on the referenced comprehensive plan policies in Paragraph 2.1, above, since the plan specifically provides for protection of the Deschutes River and contains policies and provisions encouraging the development of public access to the river.

Amendments to Section 5

2.4 Section 5 of the river corridor ordinance establishes the river corridor setbacks for riverfront property in the City. Setbacks for designated properties are 30, 40 or 100 feet from the ordinary high water mark. Existing commercially zoned properties have a 30 foot setback; other specified areas have a 40 foot setback; most undeveloped riverfront properties have a 100 foot setback.

Prior to these amendments, the river corridor ordinance provided that in areas of a 100 foot setback, all new development should be outside the setback area unless the applicant demonstrated that a lesser setback was warranted based on lot size, topography, preservation of natural vegetation and view corridors. Any variance to the 100 foot setback could not reduce the setback to less than 40 feet.

2.5 The amendments to Section 5 of the river corridor ordinance establish new minimum standards which must be satisfied through design review before the 100 foot setback can be reduced. The 40 foot minimum setback remained unchanged.

In order for the Planning Commission to consider a setback of less than 100 feet, an applicant must demonstrate that these standards are met:

(1) protection of water quality and fish and wildlife habitats; (2) the improvement or restoration of riverfront riparian areas by the creation of new riparian areas or by improvements to existing riverfront riparian areas through appropriate planting; and (3) the provision of open space along the riverfront. These new minimum standards replace the previous variance-type standards for lesser setbacks.

2.6 The City finds that the amendments establishing new minimum standards for a lesser setback request are based on the comprehensive plan provisions referenced above in Paragraph 2.1 the referenced plan policies specifically provide for the

protection of the Deschutes River, its water quality and fish and wildlife habitats. In addition, the plan provisions directly call for the conservation of riparian areas and the provision of more open space, parks and public access along the river.

2.7 The amendments to Section 5 of the river corridor ordinance also clarify what types of uses are subject to the setback requirements. Prior to the amendments, this section referred to "development" and "structures" both defined terms in the City zoning ordinance. The amendments clarify that all "buildings, parking lots and loading areas" shall be located outside the setback area (100, 40 or 30 feet) unless, as noted above, a lesser setback is requested and approved for a project subject to the 100 foot setback. Any "buildings, parking lots or loading areas" allowed with a setback of less than 100 feet are subject to design review. The comprehensive plan provisions referenced in Paragraph 2.1, above, provide the basis for requiring design review for such projects.

2.8 The amendments to Section 5 allow within the setback area (30, 40 and 100 feet) the development of features or amenities designed to enhance or support use by the public of the riverfront area. Section 5(b) allows, subject to design review, sidewalks, trails, decks, seating areas, boat launch facilities, etc., within the setback area to enhance public use of the riverfront.

The City finds that these amendments -- allowing certain features or amenities to enhance public use -- are based on several comprehensive plan provisions. The plan calls for more parks, public access and increased public enjoyment of the river. It also has provisions which encourage public use and public trails. The features or amenities allowed within the setback area are designed to enhance public use, public access and public enjoyment. The City finds that the amendments are based on existing provision and policies of the comprehensive plan. The plan provisions also recognize that development proposals along the river
should be subject to design review. The amendments require design review approval of the public use amenities or features.

Amendments to Section 6

2.9 The amendments to Section 6 add new design review standards to the river corridor ordinance for projects proposing development within the setback area. For such projects, the amendments to Section 6 allow the Planning Commission to consider the degree to which the project provides public access along the riverfront and require the dedication of public access if it is determined that the required access is reasonably related to the project and that the required dedication is also roughly proportional to the impact of the proposed project.

2.10 The City finds that the amendment to Section 6 identifying riparian areas as

natural resources or features is based on the referenced comprehensive plan policies which provide for the conservation of riparian zones along the Deschutes River.

[Adopted by the Bend City Commission December 21, 1994].

ORDINANCE NO. NS-1626

AN ORDINANCE AMENDING ORDINANCE NO. NS-1349, THE CITY'S SUBDIVISION ORDINANCE, BY ALLOWING AN "ASSURANCE PROVIDER" ARRANGEMENT TO SECURE DEVELOPMENT IMPROVEMENT AGREEMENTS.

THE CITY OF BEND DOES ORDAIN:

Section 1. Section 10-13.4.055 of Ordinance No. NS-1349 is amended by adding a new subsection (1)(D) to read:

D. An "Assurance Provider" arrangement between the subdivider, the City and a federally insured financial institution which assures the City that funds to complete the performance of the subdivider's improvement agreement will be provided by the federally insured financial institution to the City in the event the subdivider does not complete performance of the improvement agreement. The form of the Assurance Provider arrangement, and the federally insured financial institution must be satisfactory to the City.

Section 2. Subsection 3 of Section 10-13.4.055 of Ordinance No. NS-1349 is amended to read:

3. If the subdivider fails to carry out the provisions of the agreement, the City shall call upon the bond, or letter of credit or cash deposit**, or Assurance Provider arrangement** to finance any cost or expenses resulting from said failure. If the amount of the deposit, letter of credit or bond **or Assurance Provider arrangement** exceeds the cost and expense incurred by completing the improvements, the City shall release the remainder. If the amount of the deposit, letter of credit or bond **or Assurance Provider arrangement** is less than the cost and expense incurred by the City for the improvements and repairs, the subdivider shall be liable to the City for the difference.

Read for the first time this 18th day of January, 1995.

Read for the second time this 1st day of February, 1995.

Placed upon its passage this 1st day of February, 1995.

YES: 7 NO: 0

Authenticated by the mayor this 1st day of February, 1995.

Steve Sterkel
MAYOR

ATTEST:

Patricia S Stan
City Recorder

ORDINANCE NO. NS-1627

AN ORDINANCE REQUIRING REMOVAL OF NON-CERTIFIED WOOD STOVES AND FIREPLACE INSERTS WHEN A STRUCTURE CONTAINING THEM IS SOLD.

CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The City Commission finds that it is necessary for the protection of the health, safety and welfare of the City's residents to require that non-certified wood stoves and fireplace inserts be removed when structures containing them are sold.

Section 2. Definitions:

"Non-certified wood stove or fireplace insert" means a residential space heating device that has not been certified by either the State of Oregon Department of Environmental Quality or Federal Environmental Protection Agency as complying with smoke emission standards. "Non-certified wood stove or fireplace insert" does not include (1) devices exempt from certification requirements such as pellet stoves (a wood burning heating appliance which uses wood pellets as its primary source of fuel), (2) cook stoves (an indoor wood burning appliance the design and primary purpose of which is to cook food), (3) antique wood stoves (a wood stove built before 1940 that has an ornate construction and a current market value substantially higher than a common wood stove manufactured in the same time period) and (4) fireplaces.

"Sale of structure" or "sale of structures" means any transaction whereby the ownership of a structure, or the real property upon which a structure is located, is transferred by an agreement for the sale and purchase of the structure or the real property.

"Structure" has the same meaning provided in the Zoning Ordinance of the City of Bend, Oregon.

Section 3. The responsibility for removal of non-certified wood stoves or fireplace inserts shall be the responsibility of the seller of the structure which contains the non-certified wood stoves or fireplace inserts, unless the seller and buyer agree in writing that it shall be the buyer's responsibility.

Section 4. Non-certified wood stoves and fireplace inserts must be removed from structures upon sale of structures containing the non-certified wood stoves and fireplace inserts. If the removal is the responsibility of the seller, then removal shall be accomplished prior to the closing of any real estate transaction involving the structure containing the non-certified wood stoves or fireplace inserts. If removal is to be the responsibility of the buyer, removal shall be accomplished within 30 days after the closing of the real estate transaction.

Section 5. The presence of all wood stoves or fireplace inserts in a structure shall be disclosed by the seller to the buyer as part of the sale and purchase of any such structure. The disclosure shall be evidenced by a certificate which shall state whether any wood stoves or fireplace inserts are non-certified. The certificate shall be in substantially the following form:

WOOD STOVE/FIREPLACE INSERT DISCLOSURE CERTIFICATE

The undersigned seller discloses to the undersigned buyer the presence of wood stoves or fireplace inserts located at property which has the following address:

_____

The wood stoves or fireplace inserts are generally described as:	The wood stoves or fireplace inserts are: certified	non-certified
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____

Seller and buyer each understand that the City of Bend's wood stove/fireplace insert ordinance requires non-certified wood stoves or fireplace inserts to be removed from structures upon sale; and that the seller shall have the responsibility for the removal of the wood stoves or fireplace inserts, unless the seller and the buyer agree that it shall be the buyer's responsibility to remove the wood stoves or fireplace inserts.

The responsibility for removing any non-certified wood stoves or fireplace inserts shall be:

responsibility of the seller _____
responsibility of the buyer _____

The seller and buyer also understand that this certificate must be completed, signed by both the seller and buyer, and delivered by the seller to the buyer at the closing of the real estate transaction including the property where the stoves or fireplace inserts are located. A copy of the certificate must also be delivered to the City of Bend Development Services, Building Department by the seller.

The penalty for not removing non-certified wood stoves or fireplace inserts is a fine not exceeding $1000.

Dated:_____

_____ _____
Seller Buyer

Section 6. The disclosure certificate must be prepared by the seller, executed by the seller and the buyer, and delivered by the seller to the buyer at the closing of any real estate transaction involving the real property upon which the structure containing the wood stoves or fireplace inserts is located. A copy of the disclosure certificate after execution and delivery must also be submitted to the City of Bend Development Services, Building Department by the seller. Delivery of the disclosure certificate is required whether the real estate transaction is closed in escrow or if the real estate transaction is closed by the seller and buyer without a closing escrow.

Section 7. Failure of the seller to provide the disclosure certificate required by this ordinance, and failure of the seller (or the buyer if the parties have so agreed) to remove non-certified wood stoves or fireplace inserts from a structure as required by this ordinance, shall be subject to a fine of not more than $1000.

Section 8. This ordinance shall become effective 90 days after passage.

Read for the first time this 1st day of February, 1995.

Read for the second time this 15th day of February, 1995.

Placed upon its passage this 15th day of February, 1995.

YES: 5 NO: 2

Authenticated by the Mayor this 15th day of February, 1995.

Steve Stenkamp
MAYOR

ATTEST:

Patricia S. Stell
City Recorder

ORDINANCE NO. NS-1628

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO IL, LIGHT INDUSTRIAL.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. The Bend City Commission has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Commission adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated January 24, 1995.

Section 2. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property, as shown on the attached Exhibit A, from RS, Urban Standard Density Residential to IL, Light Industrial:

PARCEL 1:

A tract of land in the South Half of the Northwest Quarter (S1/2 NW 1/4) of Section Twenty-one (21), Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, and described as follows:

Beginning at a point 1704.26 feet South and 1044.26 feet West of the North Quarter Section corner of Section 21, Township 17 South, Range 12, E.W.M., and running thence South 3° 28' East, 288.87 feet; thence North 87° 45' 10" East, 238.84 feet to a point on the bank of the Kotzman lateral; thence North 87° 45' 10" East, 10.0 feet to the center of the lateral; thence Southwesterly along the center of the Kotzman lateral to a point 50.0 feet East of the center of the railroad track; thence on a 1°curve to the right of 5729.58 feet radius for 855 feet, the long chord of which bears North 3° 39' 51" East for 853.88 feet to a point 50.0 feet Easterly from the center of the railroad track; thence North 81° 32' 05" East, 446.85 feet; thence South 83° 56' 00" East, 122.9 feet to the point of beginning, EXCEPTING THEREFROM half of the width of the easement for the right of way of the Kotzman lateral. The bearings and distances along the Kotzman lateral are as follows of a line 10 feet from the centerline of said lateral. Beginning at the point where the line first hit the bank of the lateral 10 feet from the centerline and running thence South 20° 09' 50" East, 59.85 feet; thence South 13° 04' 25" West, 54.30 feet; thence South 55° 29' 45" West 135.30 feet; thence South 64° 11' 35" West, 244.53 feet; thence South 87° 32' 15" West 188.43 feet; thence South 73° 28' 30" West, 104.23 feet; thence South 46° 40' 10" West 86.08 feet; thence South 28° 34' 30" West, 240.13 feet; thence South 53° 35' 28" West, 40.78 feet; thence South 87° 28' 08" West, 53.58 feet to a point on the East right of way line of the railroad and 10 feet North of the centerline of the Kotzman lateral.

PARCEL 2:

A tract of land lying in the South Half of the Northwest Quarter (S1/2 NW1/4) of Section Twenty-one (21), Township Seventeen (17) South, Range Twelve (12) E.W.M. and described as follows: Beginning a point on the West side of the County road, which point is 1477.86 feet South and 528.38 feet West of the North Quarter corner of Section 21, Township 17 south, Range 12, E.W.M. and running thence North 84° 33' West 418.70 feet; thence South 24° 27' West 174.74 feet; thence South 14° 01' West 110.5 feet; thence South 3° 28' East (sometimes erroneously shown as West) 288.87 feet; thence North 87° 45' 10" East, 238.84 feet to a point 10 feet from the center of the Kotzman lateral; thence North 87° 45' 10" East, 10.0 feet to the center of the Kotzman lateral; thence Northeasterly along the center of the Kotzman lateral to its intersection with the West right of way line of the County Road; thence North 01° 07' 10" West 66.43 feet along the West side of the road to the point of beginning, EXCEPTING THEREFROM half of the width of the easement of the Kotzman lateral, the description of the line run parallel and 10 feet distant from the center of the Kotzman lateral is as follows:

Beginning at the point where the line first hit the lateral and which point is also 1982.92 feet South and 788.16 feet West from the North Quarter corner of Section 21 and running thence

North 2° 30' 05" West 43.75 feet; thence North 35° 45' 05" East 39.88 feet; thence North 60° 14' 45" East 141.5 feet; thence North 28° 54' 50" East, 162. 4 feet; thence North 7° 00' 40" East 122.82 feet; thence North 30° 20' 10" East 44.83 feet to the West line of the County Road, from which the point of beginning is North 1° 07' 10" West 56.43 feet. All lying in the County of Deschutes, Oregon.

ALSO EXCEPTING therefrom that portion dedicated to the public and accepted by Deschutes County for roadway and utility purposes in an instrument recorded November 20, 1985, in Book 110, Page 1194, Deschutes County Records.

Further excepting that portion lying North of Empire Avenue.

PARCEL 3:

A parcel of land lying in the Northwest Quarter (NW1/4) of Section Twenty-one (21), of Township Seventeen (17) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Commencing at the North Quarter corner of said Section 21; thence South 32° 41' 51" West, 1849.74 feet to the point of beginning; thence South 24° 29' 23" West, 44.07 feet; thence South 14° 00' 56" West, 110.34 feet; thence North 83° 56' 41" West, 122.95 feet; thence North 18° 18' 20" East, 165.40 feet; thence 117.55 feet along the arc of a 2824.79 foot radius curve to the right (long chord bears South 78° 47' 52" East, 117.55 feet) to the point of beginning and terminus of this description.

SUBJECT TO a ten (10) foot slope easement along the Northerly line of said parcel for road construction.

Read for the first time the 15th day of February, 1995.

Read for the second time the 1st day of March, 1995.

Placed upon its passage the 1st day of March, 1995.

YES: 7 NO: 0

Approved by the Mayor the 1st day of March, 1995.

Steve Stenkamp

Mayor

ATTEST:

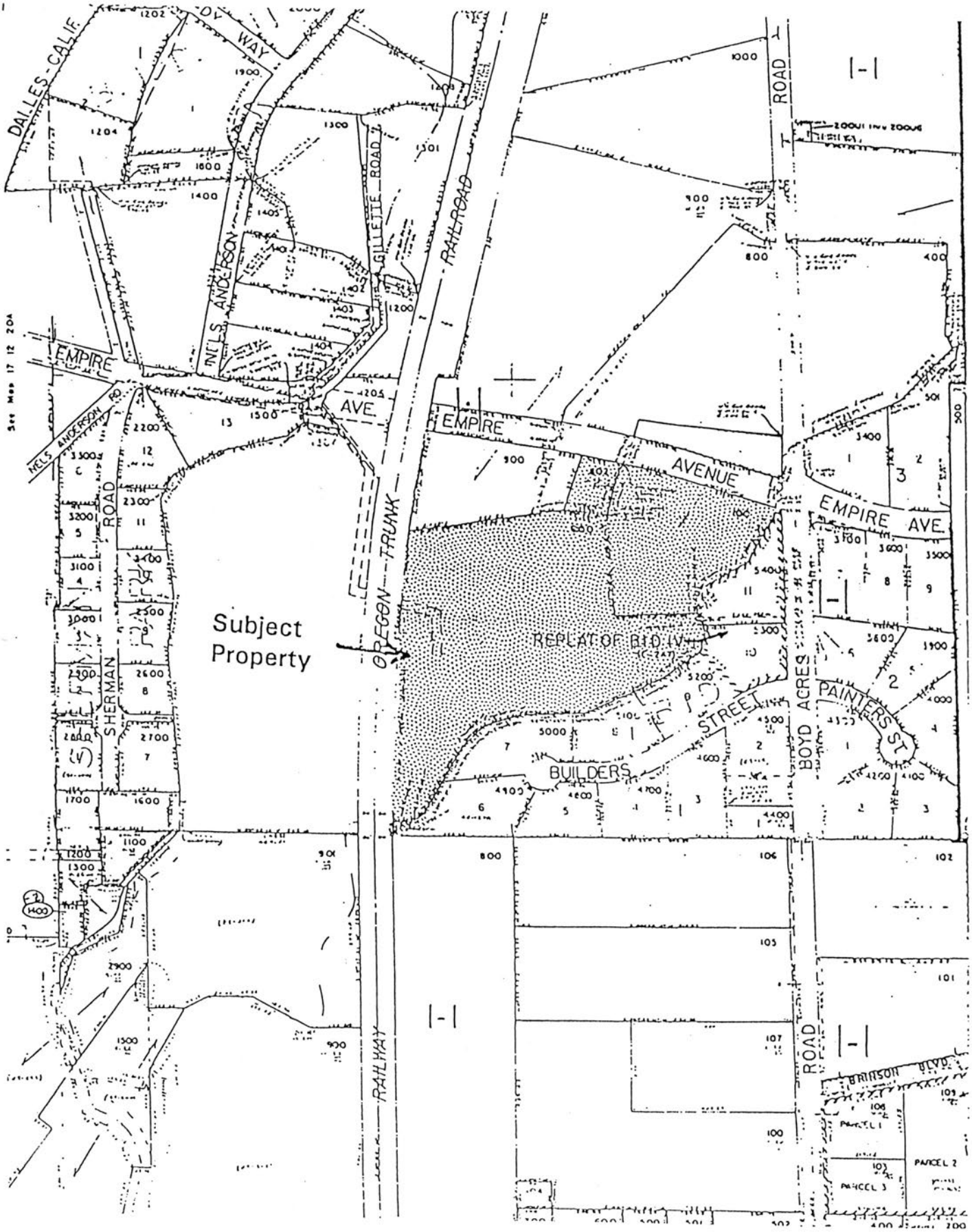
Patricia S Sell

Recorder of the City of Bend

ORDINANCE NO. NS-1628

RESOLUTION NO. 2133

EXHIBIT A



ORDINANCE NO. NS-1629

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL ZONE TO CL, LIMITED COMMERCIAL ZONE.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. The Bend City Commission has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Commission adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated December 29, 1994.

Section 2. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM, Urban Medium Density Residential zone to CL, Limited Commercial zone:

A parcel of land lying in Lots 18, 19 and 20, Block 11, TOWN OF LYTLE, CROOK COUNTY, OREGON, now in Deschutes County, Oregon and being a portion of that property described in that deed to Gary R. Wilson and Robert E. Wilson, recorded March 8, 1972 in Book 182, Page 851 of Deschutes County Record of Deeds; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Southeasterly side of the center line of the relocated The Dalles-California Highway which center line is described as follows:

Beginning at Engineer's center line Station 221+00, said station being 1784.09 feet North and 391.17 feet West of the Southeast corner of Section 29, Township 17 South, Range 12 East, W.M.; thence South 32° 25' West 297.32 feet; thence on a spiral curve left (the long chord of which bears South 28° 15' 06" West 498.94 feet) 500 feet; thence on a 1145.92 foot radius curve left (the long chord of which bears South 16° 40' 33" West 129.56 feet) 129.63 feet; thence on a spiral curve left (the long chord of which bears South 5° 06' West 498.94 feet) 500 feet; thence South 0° 56' 06" West 273.05 feet to Engineer's center line Station 238+00.

The widths in feet of the strip of land above referred to are as follows:

Station	to	Station	Width on Southeasterly Side of Center Line
228+97.32		231+50	85 in a straight line to 100
231+50		233+45	100 in a straight line to 115

ALSO that portion of said property lying Northwesterly of said strip of land.

Bearings are based upon the Oregon Co-ordinate System of 1983, South Zone.

The parcel of land to which this description applies contains 12,530 square feet, more or less.

Read for the first time the 15th day of February, 1995.

Read for the second time the 1st day of March, 1995.

Placed upon its passage the 1st of March, 1995.

YES: 7 NO: 0

Approved by the Mayor the 1st day of March, 1995.

Steve Stenby
Mayor

ATTEST:

Patricia S Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1630

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL TO CC, COMMERCIAL CONVENIENCE.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. The Bend City Commission has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Commission adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated December 30, 1994.

Section 2. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM, Urban Medium Density Residential to CC, Commercial Convenience:

Parcel 1: Beginning at the intersection of the North boundary of the afore mentioned Southwest one-quarter of the Northwest one-quarter of Section 28 and the Northeasterly right-of-way of Butler Market Road, with said point being located South 89° 23' 03" East 341.00 feet from the afore described Initial Point; thence along said North boundary, South 89° 23' 03" East 32.26 feet to the Southwesterly corner of that parcel described in Volume 280, page 1145, Deschutes County Records; thence along the Northwesterly boundary of said parcel, North 35° 57' 32" East 35.66 feet to the most northerly corner thereof; thence along the Northeasterly boundary of said parcel, South 54° 02' 28" East 50.29 feet to the Northwesterly corner of that parcel described in Volume 280, Page 1143, Deschutes County Records; thence along the Southwesterly boundary of said parcel South 54° 02' 28" East 50.29 feet to the most Southerly corner thereof; thence along the Southeasterly boundary of said parcel, North 35° 57' 32" East 35.66 feet to the afore mentioned North boundary of the Southwest one-quarter of the Northwest one-quarter of Section 28; thence along said North boundary, south 89° 23' 03" East 93.97 feet to the Northwest corner of Parcel 2, Partition Plat No.1990-47, filed as CS02912; thence along the West boundary of said Parcel 2, south 01° 31' 15" East 129.26 feet to the Northerly right-of-way of Butler Market Road; thence along said right-of-way 291.36 feet along the arc of a 410.00 foot radius curve right, of which the chord bears North 62° 27' 39" West 285.27 feet to the point of beginning.

Containing .48 acres, more or less.

Read for the first time the 15th day of February, 1995.

Read for the second time the 1st day of March, 1995.

Placed upon its passage the 1st of March, 1995.

YES: 7 NO: 0

Approved by the Mayor the 1st day of March, 1995.

Steve Stenkp
Mayor

ATTEST:
Patricia S. Sell
Recorder of the City of Bend

ORDINANCE NO. NS-1631

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY ADDING PROVISIONS FOR ANCHORING STRUCTURES:

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. Section 10.10.22 of Ordinance No. NS-1178 is amended by adding a new subsection (8A) to read:

(8A) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

Section 2. Subsection 10.10.22(7)(c) is amended to substitute reference to Section 22[(7)(a)2] to Section 22**(8A)(b)**.

Section 3. Subsection 10.10.22(10)(a) is amended to substitute reference to Section 22[(6)(e)] to Section 22**(8A)(b)**.

Read for the first time the 15th day of February, 1995.

Read for the second time the 1st day of March, 1995.

Placed upon its passage the 1st day of March, 1995.

YES: 7 NO: 0

Approved by the Mayor the 1st day of March, 1995.

Steve Stenkamp
Mayor

ATTEST:

Patricia S. Saul
Recorder, City of Bend

ORDINANCE NO. NS-1632

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 4 of Ordinance No. NS-1178 is amended by adding the following definition:

> **Dance Schools. Institutions teaching ballet, tap, jazz, modern and other performance styles of dance.**

Section 2. Section 11(3)(c) is amended to read:

> (c) Public, parochial, **dance** and private schools, not including business, [dancing,] trade, technical or similar schools.

Read for the first time the 19th day of April, 1995.

Read for the second time the 3rd day of May, 1995.

Placed upon its passage the 3rd of May, 1995.

Vote: YES 6 NO 0

Approved by the Mayor the 3rd day of May, 1995.

Steve Stenkamp
Mayor

ATTEST:

Patricia S Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1633

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 19(5)(a) is hereby amended to read:

(a) Lot Area: Each lot shall have a minimum area of [1] **1/2** acre[s].

Section 2. Section 19(5)(d) is hereby amended to read:

(d) Front Yard: The front yard shall be a minimum of [35] **20** feet.

Section 3. Section 19(5)(e) is hereby amended to read:

(e) Side Yard: Side yard shall be a minimum of [25] **15** feet except when abutting a lot in an "R" Zone and then the required side yards shall be [50] **30** feet. No side yards are required on the side of a building abutting a railroad right-of-way.

Section 4. Section 19(5)(f) is hereby amended to read:

(f) Rear Yard: A rear yard shall be a minimum of [25] **15** feet except when abutting a lot in an "R" Zone and then the rear yard shall be [50] **30** feet. No rear yard is required on the side of a building abutting a railroad right-of-way.

Read for the first time the 19th day of April, 1995.

Read for the second time the 3rd day of May, 1995.

Placed upon its passage the 3rd of May, 1995.

Vote: YES 4 NO 2

Approved by the Mayor the 3rd day of May, 1995.

Steve Stenkamp
Mayor

ATTEST:

Patricia S Saul
Recorder of the City of Bend

ORDINANCE NO. NS-1634

AN ORDINANCE DECLARING CERTAIN PROPERTY AS CHRONIC NUISANCE PROPERTY

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. The following new code sections are added to and made a part of Bend Code Chapter 5:

5.386 Chronic Nuisance Property.

(1) For the purposes of this code section, the following definitions apply:

(a) "Chronic Nuisance Property" means property upon which three or more of the below listed offenses occur during any 30 day period as a result of three separate factual incidents that have been independently investigated by any law enforcement agency:

(A) All felony drug offenses as enumerated in ORS 475.992.

(B) Assault as defined in ORS 163.160 through 163.185.

(C) Disorderly conduct as defined in ORS 166.025 excluding provision 1(b).

(D) Discharge of a firearm as defined in Bend Code Section 5.025.

(E) Unlawful furnishing or unlawful possession of alcoholic beverages to minors as defined in ORS 471.410(1) and (2) and ORS 471.430(1) and (2).

(F) Unreasonably loud or raucous noise as provided in Bend Code Section 5.385.

(b) "Control" means the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

(c) "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property. Owner includes, but is not limited to:

(A) A mortgagee in possession in whom is vested:

(i) All or part of the legal title to the property; or

(ii) All or part of the beneficial ownership and a right to present use and enjoyment of the premises; or

(B) An occupant who can control what occurs on that property.

(d) "Permit" means to suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

(e) "Person" means any natural person, association, partnership or corporation capable of owning or using property in the City of Bend.

(f) "Property" means any real property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises, room, house, building or structure or any separate part or portion thereof, whether permanent or not.

(2) Remedy.

(a) In the event a court determines property to be chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than 30, but not more than 180 days, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance.

(b) In addition to the remedies provided for in paragraph (a) above, the court may impose upon the owner of the property a civil penalty in any amount up to $100 a day, payable to the City, for each day the owner had actual knowledge that the property was chronic nuisance property and permitted the property to remain chronic nuisance property.

(c) In determining what remedy or remedies to employ, the court may consider evidence of other conduct which has occurred on the property including, but not limited to:

(A) Disturbing neighbors as defined by ORS 90.325(9).

(B) Loud noise as defined in Bend Code Section 5.385(2)(c-f).

(C) Consumption of alcohol as defined in ORS 471.620.

(3) Procedure. When any Division Commander of the Bend Police Department believes in good faith that the property within the City of Bend has become chronic nuisance property, he/she shall:

(a) Notify the owner(s) of record in writing that the property has been determined to be chronic nuisance property. The notice shall contain the following information:

(A) The street address and a legal description sufficient for identification of the property.

(B) A statement that the Division Commander has found the property to be chronic nuisance property with a concise description of the conditions leading to his/her findings.

(C) A statement that the owner shall have the opportunity to respond to the notice, within 15 days from the date of the notice, describing what steps the owner has taken or will take to remedy the chronic nuisance on the property.

(D) **If the owner's response to the notice is not satisfactory to the Chief of Police, or if the owner does not respond, then another** copy of the notice shall be served on the owner and their agent, if known, at least 10 days prior to the commencement of any judicial action by the City. Service shall be mailed **certified mail, return receipt requested**, postage prepaid, addressed to such person at the address of the property believed to be a chronic public nuisance property, and to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed to give the owner actual notice of the determination by the Division Commander.

(E) A copy of the notice shall be served on the occupant of the property if that person is different than the owner and shall occur not less than 10 days prior to the commencement of any judicial proceedings and be made either personally or by mailing a copy of the notice by **certified mail, return receipt requested,** postage prepaid, to them at the property.

(F) A copy of the notice shall be posted at the property prior to the

commencement of any judicial proceedings.

(G) The failure of any person or owner to receive actual notice of the determination by any Division Commander of the Police Department shall not invalidate or otherwise affect the proceedings under this Chapter.

(b) Concurrent with the notification procedures set forth above, the Division Commander shall send a copy of the notice to the Chief of Police as well as any other documentation which he/she believes supports the closure of the property and the imposition of civil penalties. The Chief of Police may then authorize the City Attorney to commence civil proceedings in a court of competent jurisdiction seeking the closure of the structure as well as the imposition of civil penalties against any or all of the owners thereof, and any such other relief as may be deemed appropriate.

(4) Commencement of Actions; Burdens of Proof; Defenses; Mitigation of Civil Penalty.

(a) In an action seeking the closure of a chronic nuisance property, the City shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

(b) It is a defense to an action seeking the closure of chronic nuisance property that the owner of property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is chronic nuisance property.

(c) In an action seeking civil penalties pursuant to subsection (2)(b) the City shall have the initial burden of proof to show by a preponderance of the evidence that the conditions of that subsection are satisfied.

(d) In establishing the amount of any civil penalty requested, the court may consider any of the following factors, as they may be appropriate, and shall cite those found applicable:

(A) The actions taken by the owner(s) to mitigate or correct the problem at the property;

(B) Whether the problem at the property was repeated or continuous;

(C) The magnitude or gravity of the problem;

(D) The cooperativeness of the owner(s) with the City;

(E) The cost to the City of investigating and correcting or attempting to correct the condition;

(F) Any other factor deemed by the court to be relevant.

(5) Closure During Pendency of Action; Emergency Closures. In the event that it is determined that the property is an immediate threat to the public safety and welfare, the City may apply to the court for such interim relief that is deemed by the City Attorney to be appropriate. In such an event the notification procedures set forth in subsection (3)(a) need not be complied with.

(6) Enforcement of Closure Order; Costs; Civil Penalty.

(a) In the event that a court finds that property constitutes chronic nuisance property as defined in this Chapter, the court may order the remedies set out in subsection (2)(a). In addition, in the event that it also finds that the owner had knowledge of activities or conditions at the property constituting a violation of this Chapter

and nonetheless permitted the activities to occur, the court may utilize the penalties provided for in subsection (2)(b).

(b) The court may authorize the City to physically secure the property against use or occupancy in the event that the owner(s) fail to do so within the time specified by the Court. In the event that the City is authorized to secure the property, all costs reasonably incurred by the City to effect a closure shall be made an assessment lien upon the property.

(A) The City Department(s) effecting the closure shall prepare a statement of costs and the City shall thereafter submit that statement to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rules of Civil Procedure 68, a certified copy of the statement, including a legal description of the property, shall be entered in the City's lien docket.

(B) Liens imposed by this Chapter shall be collected in all respects as provided for street improvement liens, and shall bear interest at the rate of 9% per year from 10 days after the entry in the lien docket.

(C) Any person who is assessed the costs of closure and/or a civil penalty by the court shall be personally liable for the payment thereof to the City.

(7) Severability. If any provisions of this Chapter, or its application to any person, or circumstances is held to be invalid for any reason, the remainder of the Chapter, or the application of its provisions to other persons or circumstances shall not in any way be affected.

Read for the first time this 5th day of April, 1995.

Read for the second time this 17th day of May, 1995.

Placed upon its passage this 17th day of May, 1995.

YES: 7 NO: 0

Authenticated by the Mayor this 17th day of May, 1995.

Steve Stenkamp
MAYOR

ATTEST:

Patri S Steel
City Recorder

ORDINANCE NO. NS-1635

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 19 (2) (d) is hereby amended to read:

(d) Light manufacturing, assembly, fabricating or packaging of products from previously prepared materials [such as cloth, plastic, paper, leather, precious or semi-precious metals or stones] **but excluding vehicle repair shops, cabinet shops, sawmills, planing mills and particle board, wafer board, plywood and similar uses.**

Section 2. Section 19 (2) (e) is hereby amended to read:

(e) Manufacture [of electric, electronic or optical instruments or devices], **assembly, and testing of electronic equipment, medical instruments and apparatus, optics, photographic equipment and supplies, musical instruments, and related equipment.**

Section 3. Section 19 (2) is amended by adding a new subsection (j) to read:

(j) Enclosed storage facilities including mini-warehouse operations, but excluding outdoor storage of vehicles, boats, and recreational vehicles.

Section 4. Section 19 (2) is amended by adding a new subsection (k) to read:

(k) Printing, publishing and book binding.

Section 5. Section 19 (3) (f) is amended by adding a new subsection (f) to read:

(f) Professional offices for architect/designer, accountant, attorney, engineer, insurance agent, investment counselor, surveyor, travel agent and similar business services that support the uses in the IP zone.

Read for the first time the 17th day of May, 1995.

Read for the second time the 7th day of June, 1995.

Placed upon its passage the 7th of June, 1995.

YES: 5 NO: 2

Authenticated by the Mayor the 7th day of June, 1995.

Steve Sterkel
Mayor

ATTEST:

Patricia S Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1636

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY ADDING A MIXED-USE RIVERFRONT OR MR ZONE. THIS ZONE IS TO BE USED FOR THE REDEVELOPMENT OF MILL SITE PROPERTIES ADJACENT TO THE DESCHUTES RIVER.

SECTION 1. A new Section 21A shall be added to Ordinance No. NS-1178, to read:

Section 21A. Mixed-use Riverfront Zone or MR Zone.

(1) Purpose. The purpose of this zone is to implement the General Plan policies for the creative redevelopment of mill site properties adjacent to the Deschutes River. It is intended to allow for a mix of uses that:

(a) Provide a variety of employment opportunities and housing types;

(b) Foster pedestrian and other non-motor vehicle activity;

(c) Ensure functionally coordinated, aesthetically pleasing and cohesive site planning and design;

(d) Ensure compatibility of mixed-use developments with the surrounding area and minimize off-site impacts associated with the development; and

(e) Encourage access to, and enjoyment of, the Deschutes River.

(2) Development Plans Required. The Mixed-use Riverfront zone shall only be applied to the area designated on the Bend Area General Plan Map. Before development can occur in the MR zone the Design Review Board shall review and approve both a Facilities Plan and a Master Development Plan.

(3) Facilities Plan. Prior to or concurrent with submitting a Master Development Plan the owners shall submit for review and approval a Facilities Plan that shows how the area will be served by roads and utilities.

(a) Due to the size and physical variations of the MR zone area the Facilities Plans shall be prepared for three subareas:

(A) West of the river and north of Colorado Avenue.

(B) West of the river and south of Colorado Avenue.

(C) East of the river.

(b) The Facilities Plan shall, at a minimum, include:

(A) A map of existing and planned water and sewer facilities to serve the subarea including line sizes, general location or routes, and how the lines will tie in with areas adjacent to the MR zone.

(B) A map of existing and planned collector and arterial streets adjacent to the subarea and of the general route of planned collector, arterial, and major local streets through the subarea and where the streets will connect with the existing collector or arterial street system.

(C) Such other utility or transportation information as the City may determine.

(D) A written narrative that explains or describes:
i. How the proposed water, sewer, and street system will be adequate

to serve the type and size of development planned for the area;

ii. How the location and sizing of facilities on- site will be consistent with the existing and planned utilities;

iii. How adequate water flow volumes will be provided to meet fire flow and domestic demands; and

iv. The function and location of any private utility systems.

(c) The Facilities Plan shall be approved if it is determined to be consistent with the Utilities Master Plan and the Transportation Element of the Bend Area General Plan and other information required by the City.

(4) Master Development Plan. The minimum acreage for a Master Development Plan shall be ten acres. The Master Development Plan shall include maps and descriptive text as described in (a) and (b) below which shall serve as approval standards for the Master Development Plan.

(a) The Master Development Plan shall include a plan view drawing with dimensions that show the following elements and how they fit together as a functional design:

(A) Building envelope;

(B) Parking area location, size and access;

(C) Access points to local streets and major street network;

(D) Pedestrian/bicycle corridors;

(E) Landscape areas; and

(F) Other open space and common areas.

(b) The Master Development Plan shall demonstrate that the proposal satisfies the planning and design objectives of a mixed-use development. Such text shall address:

(A) The expected uses to be developed and approximate square footage of building area in each category;

(B) Creation of a stimulating and attractive mixed-use environment through the use and inter-relationship of open spaces, building locations, building scale and design, and pedestrian amenities;

(C) Providing pedestrian access and movement to and through the site in a manner that maximizes foot traffic exposure to goods and services and minimizes conflicts with vehicle circulation areas;

(D) Encouraging access to and enjoyment of the Deschutes River;

(E) Providing for traffic and service vehicle circulation between on-site uses as appropriate;

(F) Maintaining and improving the aesthetic and location advantages provided by the terrain and natural features of the site and minimize alteration thereof as much as practicable;

(G) Reducing to a minimum any negative impacts of proposed uses on adjacent properties and ensure the livability of residential areas when applicable;

(H) Any private development covenants, conditions or restrictions that will be recorded with the property;

(I) Any other information the City may require;

(J) How the types and levels of uses are consistent with the planned function, capacity and level of service of transportation facilities.

(c) Upon approval of a Master Development Plan all subsequent building and site development must comply with the approved Master Development Plan and the standards and conditions in this section. Master Development Plans may be revised or modified using the procedures and standards in this section.

(5) Permitted Uses. The following permitted uses are subject to the building and site design standards of subsection (4) of this Section. Permitted uses may be restricted or mitigation measures applied if the Design Review Board finds that the use conflicts with existing uses adjacent to the MR zone. Property within 100 feet of the ordinary high water mark of the Deschutes River is also subject to the design review standards in Section 22A.

Industrial:

(a) Manufacture, assembly, and packaging of products from previously prepared materials such as cloth, plastic, paper, leather, and precious or semi-precious metal or stone.

(b) Manufacture, assembly, and processing of food and beverages.

(c) Manufacture, assembly, and testing of communications equipment, medical instruments and apparatus, optics, photographic equipment and supplies, timing equipment, musical instruments and related equipment.

(d) Research, engineering and development facilities or laboratories.

(e) Motion picture or video production facilities and sound stages.

(f) Printing, publishing, and book binding.

(g) Warehouse, storage, and distribution center, with any retail space limited to 15% of the gross floor area or a maximum 15,000 square feet, for:

(A) Postal and package delivery or mail order companies;

(B) Household or consumer goods; and

(C) Plumbing, electrical, heating, hardware and similar goods used in the construction industry.

(h) Studio for manufacturing of pottery items, metal sculpture, and other artistic products.

Commercial:

(i) Branch banks and other financial institutions designed to serve the area businesses and adjacent neighborhoods.

(j) Business support services including copying, blueprinting, film developing and processing, photo reproduction, accounting, computer services, building and grounds maintenance, security services, and temporary help.

(k) Motel, hotel or similar lodging facilities.

(l) Conference center and meeting facilities when associated with a motel, hotel or similar lodging facility.

(m) Commercial recreational facilities such as indoor theaters and athletic clubs but excluding intensive outdoor facilities such as go-cart tracks, bumper boats, BMX courses, and target ranges.

(n) Offices.

(o) Restaurants, delicatessens, cafes, and similar food service establishments excluding drive-through service.

(p) Retail sales and service businesses with less than a total of 15,000 square feet of gross floor area, but excluding the following uses:

(A) Motor vehicle or equipment repair and painting;

(B) Motor vehicle sales or storage;

(C) Veterinary clinics with kennels;

(D) Drive-up windows for motor vehicle service.

(q) Child day care centers and pre-schools subject to the special standards in Section 25(17) of this ordinance.

(r) Vocational, training, or technical schools.

(s) Automobile service stations subject to the special standards in Section 25(1) of this ordinance.

Residential:

(t) Single family detached or attached homes.

(u) Duplex, triplex, and multi-family dwellings subject to site plan and design review approval.

(v) Apartments, lofts and similar dwelling units located above ground floor commercial and industrial uses.

Miscellaneous:

(w) Utility facilities that are necessary to serve the developments within the MR zone such as power substations, pump stations, wells and reservoirs.

(x) Public facilities such as a park, library, fire station, amphitheater, and armory.

(y) Planned Unit Development (PUD) subject to the standards in Section 30 of this ordinance.

(z) Pedestrian amenities such as seating areas, drinking fountains, low level directional signs, and waste receptacles.

(aa) Other compatible uses subject to approval by the Design Review Board.

(6) Building and Site Development Standards. In addition to the Master Development Plan approval in Section (4) the development of individual buildings and related areas shall comply with the following standards and is subject to review and approval by the Design Review Board.

(a) Deschutes River Corridor Design Review. Property within 100 feet of the ordinary high water mark of the Deschutes River shall comply with Section 10.10.22A of this ordinance.

(b) Bed and Banks of Deschutes River. Any fill or removal of material or vegetation within the bed or banks of the Deschutes River shall comply with Section 10.10.25(26) of this ordinance.

(c) Height limitations. No new building or modification to an existing building shall exceed 35 feet in height without receiving conditional use approval in Section 29.

(d) Building Design. Buildings and structures shall have architectural elements and features which are in scale with each other. The colors and exterior material of buildings within the Master Development Plan shall be compatible. Buildings housing retail uses shall provide ample window area oriented toward pedestrian walkways or plazas.

(e) Landscaping and Open Space. The design and development of landscaping and open space shall:

(A) Retain and conserve riparian vegetation within the bed and banks of the Deschutes River and adjacent to the river to the maximum extent practicable. There shall be no net loss of natural wetlands adjacent to the river.

(B) Emphasize the use of native trees, shrubs, or other plants adapted for survival and growth in the high desert life zone.

(C) Include street trees and parking area trees which are in scale with the development.

(D) Provide a cohesive open space and pedestrian network within the development, with appropriate connections to surrounding properties and uses.

(E) Provide pleasing transitions between uses, soften and buffer utility and loading areas, and provide pleasing textures and variety particularly next to buildings, along walkways, and within pedestrian plazas.

(F) Include open spaces and plazas which are in scale with the development and invite activity appropriate to adjoining uses.

(f) Operations within Buildings: For industrial and commercial uses all manufacturing, processing, assembling, packaging, repairing, and storing of equipment, materials and supplies shall occur within enclosed buildings. Exceptions to this requirement may be allowed as necessary to comply with state and local safety regulations.

(g) Refuse collection and recycling: Refuse collection and recycling areas for businesses shall be enclosed with a fence, wall or structure high enough to screen all collection bins.

(h) Outside mechanical equipment: Industrial or commercial heating, ventilation, air conditioning, or other mechanical equipment on rooftops or ground shall be screened with a material and design that is visually compatible with the building.

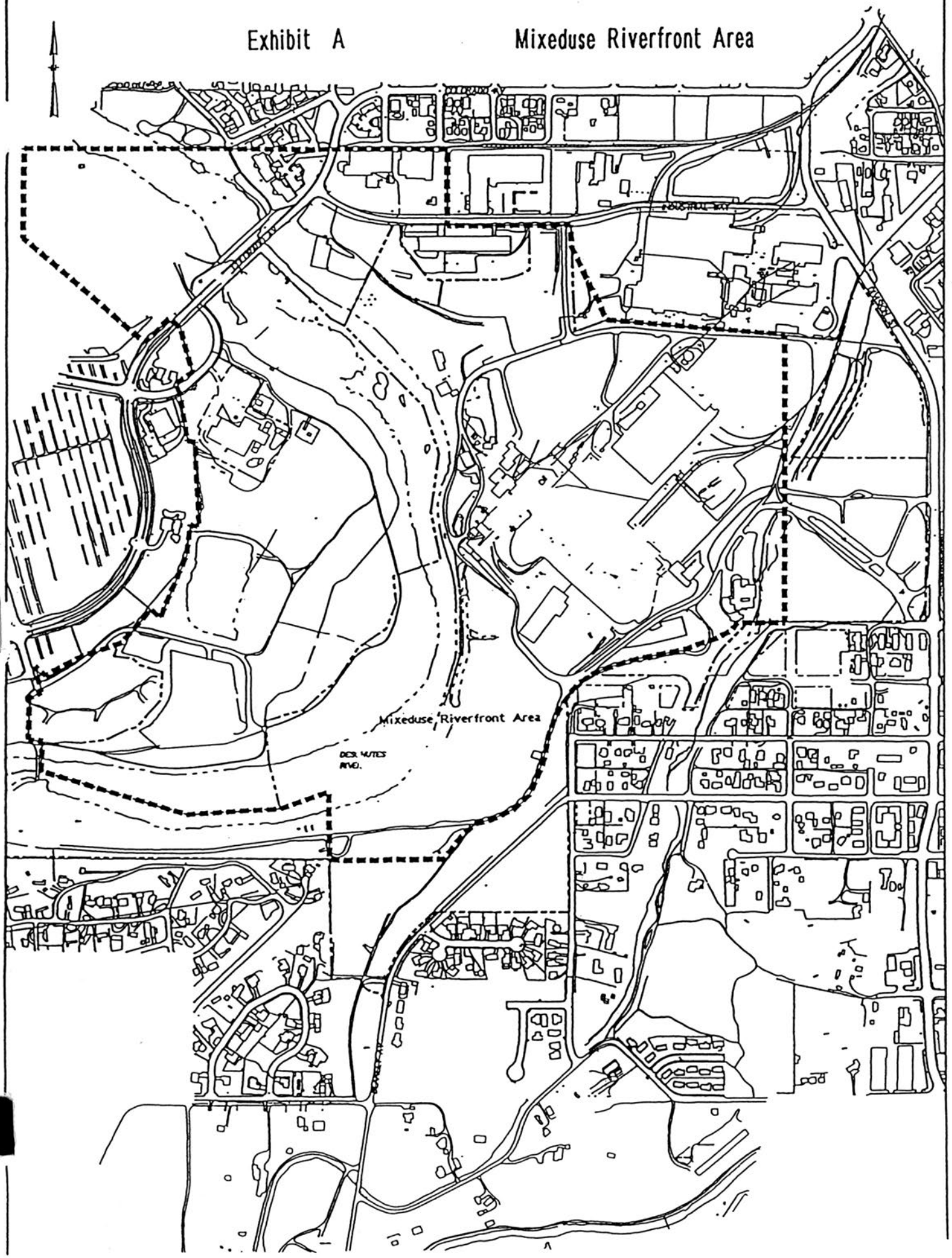
(i) Lighting: Parking lot lights, security lights, and other lights on a development site shall not exceed a height of 25 feet above the site's finish grade. All on-site lighting shall be designed to direct light down onto the site and away from adjacent residential property.

(j) Drainage: All drainage from buildings, parking/loading areas, and other

ORDINANCE NO. NS-1636

Exhibit A

Mixeduse Riverfront Area



impervious surfaces shall be retained on the development site or directed to a drainage facility as part of an overall drainage master plan using dry wells or other City approved method such as landscaping, retention basin, swale, or similar bio-filtration systems that are not directly connected to a surface stream or canal.

(k) Parking: Motor vehicle and bicycle parking shall comply with the standards in Section 24 of this ordinance. The following exceptions to the parking standards may be allowed if part of the approved Master Development Plan: the use of parking areas away or separated from the buildings or uses, and parallel parking on collector streets if bicycle lanes and adequate vehicle lanes are provided.

(l) Utilities: Electric power, natural gas, telephone and cable lines shall be installed underground.

(m) Signs: Directional and identification signs shall be in proportion with and visually related to the architectural character of the building and restrained in size. Pole signs are not allowed in the Mixed-use Riverfront Combining zone.

(n) Industrial Air Emissions: There shall be no emission of odorous, toxic, noxious matter, or dust in such quantities from industrial operations as to be readily detectable along or outside the MR zone boundary as to produce a public nuisance or hazard.

(o) Local Streets: Local streets approved as part of the Master Development Plan may be public or private streets. If private streets are proposed as part of a Master Development Plan, the Design Review Board shall:

(A) Ensure that public access is not restricted except as agreed to by the City.

(B) Provide adequate access for emergency vehicles and for school buses as necessary.

(C) Provide that construction standards and specifications are satisfactory to the City.

SECTION 2. The zoning map is amended to designate the property shown on Exhibit A (which is attached as a part of this ordinance) as zoned MR.

Read for the first time the 21st day of June, 1995.

Read for the second time the 5th day of July, 1995.

Placed upon its passage the 5th day of July, 1995.

Yes: 5 No: 2

Authenticated by the Mayor this 5th day of July, 1995.

Steve Stenkamp
Mayor

ATTEST:

Patricia S. Sturr
Recorder of the City of Bend

ORDINANCE NO. NS-1637

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM IP, INDUSTRIAL PARK AND RS, URBAN STANDARD DENSITY RESIDENTIAL TO CL, LIMITED COMMERCIAL.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. The Bend City Commission has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Commission adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated June 5, 1995.

Section 2. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from IP, Industrial Park and RS, Urban Standard Density Residential to CL, Limited Commercial:

> Commencing at the Southeast Section corner of said Section 34; thence North 00° 55' 32" West 899.02 feet; thence North 88° 14' 52" West 40.04 feet to the true point of beginning; thence North 88° 14' 52" West 259.40 feet; thence North 01° 45' 08" East 106.95 feet; thence South 88° 17' 08" West 146.76 feet; thence South 01° 47' 03" East 63.49 feet more or less to the Northeast lot corner of Lot 7, Twin Knolls Industrial Park; thence along the Northerly line of said Lot 7 North 89° 08' 25" West 321.94 feet; thence leaving Northerly line and along the Westerly line of said Lot 7 South 00° 33' 09" East 296.04 feet to a point of the Northerly right-of-way line of Twin Knolls Drive; thence leaving said Westerly line and along the said Northerly right-of-way line along on an arc of a 50.00 foot radius curve right 105.67 feet the chord of which bears South 87° 27' 35" East 87.07 feet; thence North 89° 49' 26" East 5.10 feet; thence leaving said Northerly right-of-way South 00° 43' 53" West 14.16 feet; thence along on an arc of a 190.00 foot radius curve right 142.61 feet the chord of which bears South 61° 04' 39" East 139.29 feet; thence along on an arc of a 130.00 foot radius curve left 116.49 feet, the chord of which bears South 65° 14' 41" East 112.63 feet; thence North 89° 05' 07" East 408.02 feet to the Easterly right-of-way of 27th Street; thence North 00° 55' 32" West 370.90 feet; thence leaving said Westerly right-of-way North 88° 14' 52" West 11.68 feet to the point of beginning and terminus of this description.

Read for the first time the 21st day of June, 1995.

Read for the second time the 5th day of July, 1995.

Placed upon its passage the 5th of July, 1995.

YES: 4 NO: 3

Approved by the Mayor the 5th day of July, 1995.

Steve Stenkamp
Mayor

ATTEST:

Patricia S. Steu
Recorder of the City of Bend

ORDINANCE NO. NS-1638

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL, TO CC, COMMERCIAL CONVENIENCE ZONE.

THE CITY COMMISSION DOES ORDAIN AS FOLLOWS:

Section 1. The Bend City Commission has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Commission adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated May 31, 1995.

Section 2. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM, Urban Medium Density Residential to CC, Commercial Convenience zoning:

> In Township 18 South, Range 12 East of the Willamette Meridian; Section Six (6): A tract of land located in the Northeast Quarter more particularly described as follows: Beginning at a point on the East right-of-way line of West 15th Street thence the North Quarter corner bears North 09° 14' 24" West, 695.04 feet; thence 80° 15' 49" East, 181.65 feet; thence South 00° 44' 11" East, 150.00 feet; thence North 89° 15' 49" East, 200.00 feet to the Westerly right-of-way of the Cascade Lakes Highway; thence South 01° 43' 32" East, 171.28 feet; thence North 89° 40' 23" West, 388.71 feet; thence North, 314.06 feet to the point of beginning.
> SUBJECT TO: existing telephone, telegraph and power lines, roads, railroads, highways, ditches, canals and pipelines.

Read for the first time the 21st day of June, 1995.

Read for the second time the 5th day of July, 1995.

Placed upon its passage the 5th of July, 1995.

YES: 6 NO: 1

Approved by the Mayor the 5th day of July, 1995.

Steve Stenkamp
Mayor

ATTEST:

Patricia S. Sale
Recorder of the City of Bend

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ORDINANCE NO. NS-1639

AN ORDINANCE VACATING A PORTION OF VAIL AVENUE LYING BETWEEN EAST 2ND STREET AND THE PARKWAY, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 21, 1995 requesting that the following described area be vacated:

A portion of Vail Avenue located between East 2nd Street and the Parkway, lying between Blocks 13 and 14, Riverside, located in the Northeast one-quarter of the Southeast one-quarter of Section 29, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon, being more particularly described as follows:

> A strip of land 60 feet in width, lying northerly of, and adjacent to, Lot 7, Block 14, Riverside, Crook County, Oregon, now in Deschutes County, Oregon, being a portion of Vail Avenue; said strip being bounded on the west by the easterly right-of-way line for the Bend Parkway acquired by the State of Oregon as described in deed recorded in Volume 349 at Page 1640 of Official Records of Deschutes County; said strip being bounded on the east by a line which commences at the northeast corner of said Lot 7 and which runs directly to the southwest corner of that certain property dedicated to the public for street right-of-way purposes and described in deed recorded in Volume 300 at Page 729 of Deschutes County Records.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The Recorder of the City of Bend having caused a notice of public hearing for vacation of public property describing the above portion of VAIL AVENUE right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City Recorder having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 4th day of October, 1995, at 7:30 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of right of way of VAIL AVENUE, Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 4th day of October, 1995.

Read for the second time the 18th day of October, 1995.

Placed upon its passage the 18th day of October, 1995.

Yes: 7 No: 0

Authenticated by the Mayor this 18th day of October, 1995.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1640

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL TO RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated August 17, 1995.

Section 2. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RM, Urban Medium Density Residential to RH, Urban High Density Residential:

Legal Description: Lots 12 & 13, Block 42, Riverside

Read for the first time the 4th day of October, 1995.

Read for the second time the 18th day of October, 1995.

Placed upon its passage the 18th of October, 1995.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of October, 1995.

Steve Stenkamp
Mayor

ATTEST:

Patricia S Sun
Recorder of the City of Bend

ORDINANCE NO. NS-1641

AN ORDINANCE ADOPTING THE 1995 AMENDMENTS OF THE OREGON LEGISLATURE TO THE BEND UNIFORM TRAFFIC CODE.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Bend Uniform Traffic Code Section 6.015 is amended to read:

> 6.015 Application of State Traffic Laws. A violation of the provisions of the Oregon Vehicle Code in ORS Chapters 801 through 822 and ORS 476.715 is a municipal ordinance offense against the City of Bend. The provisions of ORS Chapter 153 shall be applicable to all actions filed in Bend Municipal Court which allege a violation of this section. Amendments to the chapters of ORS incorporated herein made by the 1983, 1985, 1987, 1989, 1991, [and] 1993 **and 1995** Legislatures shall be amendments to this section.

Read for the first time the 4th day of October, 1995.

Read for the second time the 18th day October, 1995.

Placed upon its passage the 18th day of October, 1995.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of October, 1995.

Steve Sterkel
Mayor

ATTEST:

Patricia S. Stell
Recorder, City of Bend

ORDINANCE NO. NS-1642

AN ORDINANCE AMENDING THE NEIGHBORHOOD COMMERCIAL ZONE (CN) OF THE CITY OF BEND ZONING ORDINANCE NO. NS-1178.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 10-10.13 (2) (b) is amended to read:

(b) Grocery stores **or specialty food store**.

Section 2. Section 10-10.13 (2) (d) is amended to read:

(d) Clothes cleaning [pick-up] agency

Section 3. Section 10-10.13 (2) is amended by adding new subsections (f)-(j) to read:

(f) Video rental store.

(g) Coffee shop, cafe, or delicatessen not to exceed 2,000 square feet of gross floor area.

(h) Pharmacy.

(i) Electronic service center providing photocopying, FAXing, and computer network access.

(j) Mail box rental and package store.

[f]**(k)** Accessory buildings customarily appurtenant to a permitted use.

[g]**(l)** Dwelling units that are above or behind a permitted commercial use and secondary to that commercial use.

Section 4. Section 10-10. 13 (3) is amended by adding new subsection (a) to read:

(a) Automobile service stations subject to special use requirements in Section 25.

Section 5. Section 10-10.13 (5) (d) is amended to read:

(d) Front Yard: The front yard **building setback distance** shall be [a minimum of 20 feet] **the same as the adjacent residential zone**.

Section 6. Section 10-10.13 (6) is amended to read:

(6) Off-Street Parking and Loading. Off-street parking and loading space shall be provided as required in Section 24, **except that up to two parking spaces on the street may be counted as part of the required spaces**.

Section 7. Section 10-10.13 (7) (c) is amended to read:

(c) In any CN Zone directly across the street **or alley** from a RS, RM or RH zone, the parking and loading area shall be set back at least 10 feet from the street **or alley** right-of-way and said **set back** area shall be appropriately landscaped [along the residential street frontage] to protect the character of adjoining and adjacent residential property. Such landscaping shall be maintained.

Section 8. Section 10-10.13 (7) (f) is amended to read:

(f) Motor vehicle parking shall be located at the side or behind the building. **Parking lots and maneuvering areas shall be maintained and kept clean on a regular basis.**

Section 9. Section 10-10.13 (7) is amended by adding new subsections (g) - (l) to read:

(g) Motor vehicle parking and maneuvering areas adjacent to residential lots shall be screened with a wood fence that is typical of residential areas.

(h) Buildings within the CN zone shall have external architectural features such as roof line, exterior materials, window size and location, doors, porches, and entrances that are similar to the predominant residential pattern in the area.

(i) Landscaped areas shall be planted in live ground cover, shrubs, lawn, flowers and trees that are typical of residential areas. The use of cinder rock, river rock, ornamental concrete or stonework, and artificial turf or carpeting is prohibited.

(j) Lighting fixtures shall be designed to direct light down onto the site and away from residential property. No pole light shall exceed ten feet in height. Parking lot lights shall be turned off by 10:30 pm.

(k) Signs on the building or site shall be as specified in the current City sign code.

(l) Operating hours for commercial uses shall be limited to period from 6:00 am to 10:00 pm.

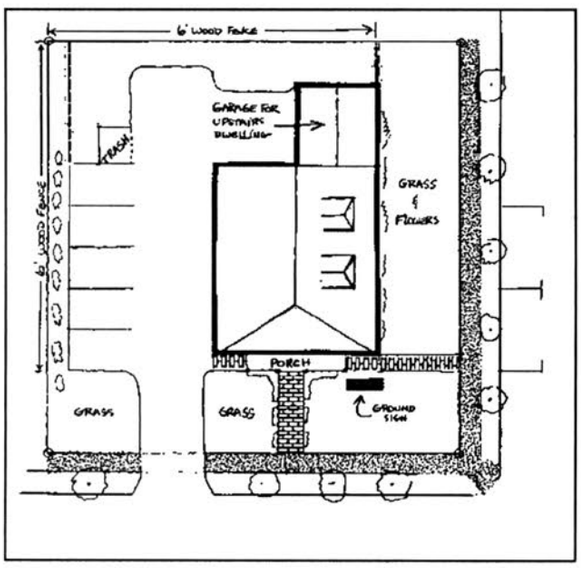


Figure 1
Example of site layout

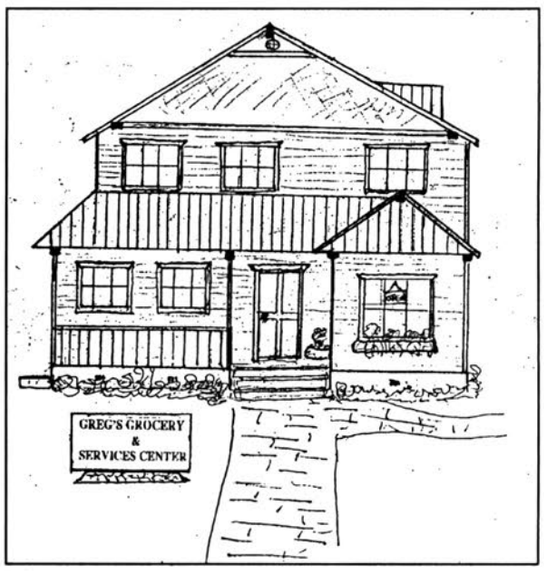


Figure 2
Example of building appearance

Read for the first time the 18th day of October, 1995.

Read for the second time the 1st day of November, 1995.

Placed upon its passage the 1st day of November, 1995.

Authenticated by the Mayor the 1st day of November, 1995.

YES: 7 NO: 0

Steve Stenberg
Mayor

ATTEST:

Patricia S Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1643

AN ORDINANCE AMENDING CITY OF BEND CODE, CHAPTER 1, SECTION 1.100 CHANGING THE MEETING TIME FOR THE BEND CITY COUNCIL MEETINGS.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.100(1) of Bend Code, Chapter 1 is amended by changing that section to read:

1.100 Meetings.

(1) Unless provided otherwise by ordinance, the City ~~Commission~~ **Council** shall hold regular meetings on the first and third Wednesdays of each month at ~~7:30~~ **7:00** p.m. If the regular meeting falls on a holiday, the meeting shall be held on the day following **or cancelled**.

(2) Regular ~~Commission~~ **Council** meetings shall be held in the ~~commission room~~ **Council Chambers** of City Hall.

(3) Adjourned meetings may be held at such times as the ~~Commission~~ **Council** may determine.

(4) Special meetings of the ~~Commission~~ **Council** may be called and held as provided by the City charter and state law.

Read for the first time the 18th day of October, 1995.

Read for the second time the 1st day of November, 1995.

Placed upon its passage the 1st of November, 1995.

YES: 7 NO: 0

Authenticated by the Mayor the 1st day of November, 1995.

Steve Stenkamp
Mayor

ATTEST:

Patricia S Steel
Recorder of the City of Bend

ORDINANCE NO. NS-1644

AN ORDINANCE AMENDING CITY OF BEND CODE, CHAPTER 7, SECTION 7.350 THROUGH 7.398 ESTABLISHING CRITERIA FOR SPECIAL EVENTS, STREET CLOSURES AND PARADES.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Section 7.350 through 7.398 of Bend Code, Chapter 7 is amended by changing that section to read:
SPECIAL EVENTS

7.350 Definitions. As used in sections 7.352 to 7.396, the following shall mean:

(1) "Assembly." Except as provided in B.C. 7.354, the term assembly includes all gatherings of a group or groups of the public of more than 75 persons in a public park or on public property **for a given day**. This term shall also include a parade as defined in B.C. 7.350 (3).

(2) "Beer Garden." A temporary outdoor facility located on public property or premises open to the public for dispensing beer or wine in accordance with a Special Beer or Wine License issued by the Oregon Liquor Control Commission. The term does not include the dispensing of alcoholic beverages at Vince Genna Stadium during regularly scheduled and sponsored sports contests, or a temporary Special Dispenser License issued to a Dispenser by the Oregon Liquor Control Commission for use upon the premises of the licensee.

( ) **"Downtown - Drake Park District" here after referred to as "District": That area encompassed by the perimeter of Newport, Greenwood, Hill, Franklin, Bond, Louisiana, Riverside, Tumalo, and Harmon Blvd.**

(3) "Chief of Police." The Chief of Police of the city and his/her duly authorized officers and representatives.

(4) "Parade." A procession of persons using the public right-of-way and consisting of 10 or more persons or 3 of more vehicles, with the exception of funeral processions which must comply with B. C. 6.115.

(5) "Premises Open to the Public." Any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.

( ) **"Public Benefit" A benefit that accrues to the public at large rather than to a person, a small group of persons or to a private enterprise.**

(6) "Public Property." Property owned by or under the control of the City of Bend, the Bend Metro Park and Recreation District or private property and premises open to the public as defined in ORS 487.535.

(7) "Special Event." An assembly as defined in B.C. 7.350 (1).

[Section 7.350(1) amended by Ord. NS-1493, passed July 5, 1989]
[Section 7.350 (2), (4) and (5) added by Ord. NS-1493, passed July 5, 1989]

7.352 Assembly Prohibited.

(1) No person shall allow, promote, conduct or cause to be advertised an assembly of persons in a public park or on public property when the person believes or has reason to believe that 75 or more persons will attend, unless a valid city permit has been obtained for the use of the park or other property for the assembly. The organizer or operator must apply to the City Recorder for a permit. The city shall process said application as soon as is practicable. One permit shall be required for each assembly. Liability for failure to comply with the provisions of B.C. 7.352 to 7.396 shall attach to persons who are responsible for obtaining permits under those provisions.

(2) With the exception of July and August, the City of Bend will permit two special events in the District, as defined in 7.350 ( ) or adjacent area that displace on and/or off street parking within the area, excluding parades in any one month. In the months of July and August, the number of events subject to these criteria increases from two events to three events.

(a) A calendar shall be created designating each event and its date. All existing events have precedence over new events. New events, unable to obtain a date on this calendar, will need to seek a special events permit for other areas of town. They may, at such time an existing event either terminates its event or forfeits its date, apply for that date on the calendar.

(b) Events will be judged on a first come basis and their performance, if applicable, in other locations.

(c) Events applying under the criteria established in 7.352 (2) must make application to the City not earlier than October 1 in the year prior to the event and not less than 30 days in advance of the event.

(3) It is the intent of the City of Bend to hold special events in the District, on NW Brooks Street, the Riverfront Plaza, and adjacent parking lots. All events will initially be reviewed on their applicability in these spaces. An event organizer wishing to hold an event elsewhere in the District or adjacent area must, in addition to meeting all other requirements for a permit, demonstrate that the event will be a public benefit and cannot reasonably be held at another site.

[Section 7.352 amended by Ord. NS-1493, passed July 5, 1989]

7.354 Exclusions. Bend Code 7.350 to 7.394 shall not apply to any regularly organized and supervised school district activity or program of the city or to athletic contests organized by the Bend Metro Parks and Recreation District which do not utilize public streets and rights-of-way. Further, the City Manager shall be authorized to waive the permit requirement for certain limited assemblies when no significant public health, safety or welfare issues are involved and when no police service or other city service is determined to be necessary. These assemblies may include, but are not limited to: family picnics, weddings, and retail parking lot sales. All such events must, however, comply with park rules and ordinances if the event is being held in a public park.

7.356 Permit Required; Fee.

(1) No assembly shall be held unless the person sponsoring the assembly obtains a permit and pays the fee set by resolution pursuant to Bend Code 1.800 - 1.806. ~~That fee shall be $100 until the effective date of the Ordinance No. NS-1485.~~ The fee for the permit is to cover the cost of inspecting facilities and issuing and administering the permit prior to the event. The applicant shall also pay for City costs incurred as a result of the assembly. These costs may include but are not limited to, expenses for police officers, fire personnel, ambulance services, public

works service and materials. These additional costs shall be determined in the application review process and shall be paid prior to the event, except for expenses that cannot be determined until after the completion of the event.

(2) Unless the time limit is waived by the City Manager, written application for each assembly permit shall be made to the city 30 or more days prior to the first day on which the assembly is to be held as required by B.C. 7.212. In addition to the information required by B.C. 7.212 to 7.216, each application shall state **a description of the event, proof of insurance required by B.C. 7.276, a parking plan, vehicle traffic flow plan, sanitation plan, fire protection plan, a map showing** the location to be used for the assembly, the number of persons reasonably anticipated to attend, and that the applicant will abide by all rules and regulations of B.C. 7.352 to 7.396 and other regulations and laws for the protection of the health, morals, peace and safety of the persons employed at the location, the patrons or participants, and the public. No permit shall be transferable or assignable without the consent of the issuing body.

(3) For parades, the application shall also include the desired route of the parade and assembly points, the proposed starting and ending time and the approximate number of persons, vehicles and animals anticipated to participate in the parade. **The City of Bend will grant no more than one (1) parade permit per month.**

(4) A calendar will be created and all existing events will have precedence over new events. New events unable to obtain a date on the calendar must wait for a time on the calendar that becomes open by either an existing event terminating its event or forfeiting its date.

[Section 7.356 (1) amended by Ord. NS-1485, passed December 21, 1988]
[Section 7.356 amended by Ord. NS-1493, passed July 5, 1989]

7.358 Application Procedure. Within 10 days after the application for the permit is made, the applicant must obtain written approval and assurance from each of the appropriate city officials or departments that satisfactory arrangements have been made by the applicant to comply with all of the conditions specified in B.C. 7.360 to 7.370. The City Recorder shall identify the appropriate officials to be contacted for completion of the permit. The officials or departments may approve the permit, subject to conditions necessary to assure compliance with the appropriate criteria enumerated in those sections. When any type of physical facility is required or subject to approval, preliminary approval may be granted based upon specific plans proposed and submitted by the applicant. The approval shall be on forms provided and shall be filed with the Recorder.

[Section 7.358 amended by Ord. NS-1493, passed July 5, 1989]

7.360 Sanitary Facilities. The applicant shall provide sanitary facilities that are in accordance with state regulations and proof that the necessary permits have been procured.

[Section 7.360 amended by Ord. NS-1493, passed July 5, 1989]

7.362 Fire Protection Standards. If required, applicant shall show that the appropriate type, size, number and location of fire protection devices and equipment are available at, in or near any location, including outdoor sites, buildings, tents, stadiums or enclosures, where more than 10 persons may be expected to congregate at any time during the course of the assembly, as determined by the Fire Chief.

[Section 7.362 amended by Ord. NS-1493, passed July 5, 1989]

7.364 Medical Services. If required, each assembly of more than 1,000 persons shall have at least a first-aid station approved by the Fire Chief and staffed by a person trained for emergency

medical care. If the assembly exceeds 2,500 persons, at least one ambulance or rescue vehicle may be required to be in attendance.

[Section 7.364 amended by Ord. NS-1493, passed July 5, 1989]

7.366 Public Safety.

(1) Adequate traffic control and crowd protection security shall be contracted for or otherwise provided by the applicant, as required by the Chief of Police. Security personnel shall conform to the standards required by the Chief of Police. The number of adequate fire control personnel, if needed, shall be determined by the Fire Chief.

(2) The security personnel may be required to wear appropriate identification or a uniform approved by the Chief of Police and must be on duty during the entire assembly unless a relief schedule has been planned and approved.

(3) It shall be the duty of the security personnel to report any violations of law to the Chief of Police and to take whatever action is reasonable and necessary to enforce the terms of the permit.

[Section 7.366 amended by Ord. NS-1493, passed July 5, 1989]

7.368 Parking Facilities. The applicant shall demonstrate that adequate parking facilities have been made available within or adjacent to the location for which the permit is requested. Adequate access shall be provided for the parking area to facilitate the movement of vehicles at any time to or from the parking area. If buses are used to transport the public to the event, it shall be shown that public parking or parking as described above is available at a site from which buses are scheduled to pick up persons to transport them to the event.

[Section 7.368 amended by Ord. NS-1493, passed July 5, 1989]

7.370 Inspection of Required Facilities. All facilities shall be in place a sufficient time, but not less than two hours, before the assembly for which an application is submitted and shall be subject to inspection by the city. If the actual facility, construction or other condition fails to meet the standards approved in the proposed plans, preliminary approval may be withdrawn and all permits granted subject to such approval may be withdrawn.

[Section 7.370 amended by Ord. NS-1493, passed July 5, 1989]

7.372 Beer Gardens. Alcohol may be served in conjunction with an assembly only in an approved beer garden, under the following conditions:

(1) The applicant has obtained a special retail beer or wine license from the Oregon Liquor Control Commission and City ~~Commission~~ **Council** approval.

(2) Minors under the age of 21 years shall be excluded from the premises where alcohol is to be served.

(3) The beer garden must comply with the City's beer garden policies.

(4) The applicant has paid the beer garden fee set pursuant to B.C. 1.800 - 1.806. ~~Until the effective date of Ordinance No. NS-1485, that fee shall be $250.~~

[Section 7.372 added by Ord. NS-1493, passed July 5, 1989]

7.374 Insurance. The permit applicants shall be required to furnish evidence of liability insurance providing primary coverage in an amount which is not less than the City's tort liability limits established by the Oregon Legislature and naming the city as an additional insured. The liability insurance shall apply to, and provide coverage for, any and all claims for bodily injury and property damage arising from or caused by the assembly for which the permit is granted and shall be the primary coverage. In lieu of meeting the insurance requirements of this section, any governmental entity may enter into an agreement with the City to indemnify and hold the City harmless in the event of any damage or injury resulting from the assembly.

[Section 7.374 amended by Ord. NS-1493, passed July 5, 1989]

7.376 Street Closure.

(1) No City street will be closed for an assembly unless the applicant has specifically requested that the street be closed at least 30 days prior to the date of closure and has obtained City Manager approval of that request (see B.C. 6.025 & 6.030). In the event that the street to be closed is a state highway, the applicant shall obtain approval from the Oregon Department of Transportation to close the highway. Notwithstanding the foregoing time limit, the City Manager may order closure of streets that are not arterial, collector or commercial streets, provided that the Manager has received a request to close the street at least 72 hours prior to the time of closure.

(2) Requests for street(s) closures in the District will be granted only if the event can not be held without a street closure or there is a specified safety reason to close the street(s). The event organizer must demonstrate that these conditions exist.

[Section 7.376 added by Ord. NS-1493, passed July 5, 1989]

7.377 Sound Regulation. All assemblies must comply with the City's noise and sound regulation ordinances, including but not limited to B.C. 5.320 (p) and B.C.5.385 (2). If an assembly will be utilizing amplified sound at any location within the City or radios, tape recorders or record players on public property, the applicant shall obtain City ~~Commission~~ **Council** or City Manager approval, as specified in B.C. 5.320 (p) and B.C. 5.385 (4)(b) and in the City's amplified sound policy.

[Section 7.377 added by Ord. NS-1493, passed July 5, 1989]

7.378 Permit approval.

(1) The City Manager shall grant and issue the assembly permit if, after consideration, he or she finds:

(a) All city officials and departments have issued their approval pursuant to B.C. 7.358 to 7.368 and all other provisions of B.C. 7.350 to 7.396 have been complied with.

(b) The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

(c) The facilities desired have not been reserved for other use at the day and hour required in the application and the event will not conflict with another event for which a permit has already been issued.

(d) The conduct of the activity will not substantially interrupt the safe and orderly movement of traffic.

(e) The conduct of the activity will not require the diversion of so great a number of city personnel of the city to properly police the activity and the contiguous areas as to prevent normal police protection to the city.

(f) The conduct of the activity is not reasonably likely to cause injury to persons or property so as to incite violence, crime or disorderly conduct.

(g) The appropriate provisions of B.C. 7.374 have been complied with.

(h) The proposed activity or use of a park or park facility will not unreasonably interfere with or detract from the general public enjoyment of the park.

(2) In order to assure compliance with the criteria of this section, the City Manager may impose conditions on the grant of a permit reasonably designed to assure compliance. The permit will not be issued if the applicant refuses to agree to abide by or comply with all conditions of the permit.

[Section 7.378 (1)(g) amended by Ord. NS-1395, passed January 18, 1984]
[Section 7.378 amended by Ord. NS-1493, passed July 5, 1989]

7.380 Permit Denial. The City Manager shall deny the assembly permit if he finds that the requirements of B.C. 7.350 - 7.396 have not been or cannot be complied with. If the permit is denied, the applicant shall be notified of the denial and the reason for denial.

[Section 7.380 amended by Ord. NS-1493, passed July 5, 1989]

7.382 Appeal.

(1) Applicant: If the permit is denied the applicant may appeal the denial to the City ~~Commission~~ **Council** in accordance with the provisions of B.C. 7.228.

(2) Others: Persons wishing to appeal the issuance of a special event must submit, in written form, a complaint specific to the event that has transpired after the fact.ex-post facto. The City will take such written comment into account prior to issuing any subsequent permits for the event. The complaint must be filed no more than three months after the event takes place.

[Section 7.382 amended by Ord. NS-1493, passed July 5, 1989]

7.384 Permit Information. A permit issued pursuant to B.C. 7.356 to 7.378 shall contain the following information:

(1) Date of the activity.

(2) Location of the activity, including, if applicable, restrictions to certain areas of a park.

(3) Hour when the activity will start and terminate.

(4) Number of persons anticipated to attend or participate.

(5) Special conditions imposed on the activity.

(6) Full name and signature of applicant.

[Sections 7.384 (4) & (6) added by NS-1493, passed July 5, 1989]
[Section 7.384 amended by Ord. NS-1493, passed July 5, 1989]

7.386 Inspection. The City Manager or Chief of Police or designee or its authorized representatives shall have the right to go on the premises or facilities for which the permit has been granted for the purpose of inspection and enforcement of this Code and state law.

7.388 Crowd Limitation. If at any time during the assembly the size of the crowd exceeds the number of persons reasonably anticipated to be in attendance, the Chief of Police may require the permittee or sponsor to limit further admissions until sanitation, parking, fire, health, medical, traffic and crowd control requirements have been brought into conformity with the standards under which the permit was issued.

7.390 Duty to Preserve Order Placed on Operator. It is the purpose of B.C. 7.350 to 7.396 to put the burden of preserving order upon the operator of the assembly. If the assembly is not operated in accordance with the rules and regulations prescribed by those sections, the permit shall be subject to revocation.

[Section 7.390 amended by Ord. NS-1493, passed July 5, 1989]

7.392 Rules and Regulations. The rules and regulations for parks set forth in B.C. 5.320 shall govern and control the permitted use of all city parks and public property during an assembly unless otherwise specifically provided in the permit.

[Section 7.392 amended by Ord. NS-1493, passed July 5, 1989]

7.394 Revocation of Permit.

(1) If an assembly is not being operated according to the rules and regulations of B.C. 7.352 to 7.392, the Manager shall have the right to revoke the permit and the applicant or other responsible individual shall be subject to applicable penalties under this Code, city ordinances and state law. Failure to comply with the terms and conditions of B.C. 7.350 to 7.392 shall constitute a public nuisance and shall be subject to all criminal and civil remedies.

(2) The revocation decision of the Manager shall be subject to the appeal procedures of B.C. 7.224.

[Section 7.394 amended by Ord. NS-1493, passed July 5, 1989]

7.396 Offenses Against Special Events.

(1) No person shall knowingly interfere with the conduct of a licensed special event or authorized activities of an event participant.

(2) No person shall operate a vehicle that is not part of a special event between the vehicles or persons in the event.

[Section 7.396 amended by Ord. NS-1493, passed July 5, 1989]

7.398 Penalties.

(1) Failure to obtain a permit for an assembly or to pay permit fees or City costs, as required by B.C. 7.352 and 7.356 (1), is a Class A civil infraction.

(2) Failure to provide the facilities and services required by B.C. 7.360 - 7.366 or to comply with the conditions of the assembly permit is a Class A civil infraction.

(3) A violation of B.C. 7.372 (3) and (4), 7.390 and B.C. 7.396 (1) is a Class A civil infraction and a violation of B.C. 7.396 (2) is a Class A traffic infraction.

(4) Closure of a City street or right-of-way in violation of B.C. 7.376 is a Class A infraction.

(5) Failure to comply with the directives of the Police Chief relating to crowd limitation is a Class A infraction.

[Section 7.398 added by Ord. NS-1493, passed July 5, 1989]

Read for the first time the 20th day of December, 1995.

Read for the second time the 3rd day of January, 1996.

Placed upon its passage the 3rd day of January, 1996.

YES: 4 NO: 2

Authenticated by the Mayor the 3rd day of January, 1996.

Steve Stenberg
Mayor

ATTEST:

Patricia S Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1645

AN ORDINANCE VACATING A PORTION OF WEBSTER AVENUE AND XERXES AVENUE LYING BETWEEN SECOND STREET AND THE OREGON TRUNK RAILWAY, AND VACATION OF THE EASTERLY CONNECTING ALLEY, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on August 16, 1995 requesting that the following described area be vacated:

> A portion of Webster Avenue and Xerxes Avenue between 2nd Street and the Oregon Trunk Railway, and vacation of the easterly connecting alley, Blocks 22, 23 and 24, Riverside, located in the Southwest one-quarter of the Northwest one-quarter and the Northwest one-quarter of the Southwest one-quarter of Sections 28, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon;

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The Recorder of the City of Bend having caused a notice of public hearing for vacation of public property describing the above portion of WEBSTER AVENUE and XERXES AVENUE right of way and the EASTERLY CONNECTING ALLEY to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City Recorder having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 20th day of December, 1995, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of right of way of WEBSTER AVENUE and XERXES AVENUE, and the EASTERLY CONNECTING ALLEY Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 20th day of December, 1995.

Read for the second time the 3rd day of January, 1996.

Placed upon its passage the 3rd day of January, 1996.

Yes: 6 No: 0

Authenticated by the Mayor this 3rd day of January, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1646

AN ORDINANCE VACATING A PORTION OF EAST YALE AVENUE FROM EAST SECOND STREET TO U.S. HIGHWAY 97, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on August 16, 1995 requesting that the following described area be vacated:

> A portion of East Yale Avenue from East Second Street to U.S. Highway 97, lying between Blocks 24 and 25, Riverside, located in the Southwest one-quarter of the Northwest one-quarter of Section 28, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon;

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The Recorder of the City of Bend having caused a notice of public hearing for vacation of public property describing the above portion of EAST YALE AVENUE right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City Recorder having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 20th day of December, 1995, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated;

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of right of way of EAST YALE AVENUE, Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 20th day of December, 1995.

Read for the second time the 3rd day of January, 1996.

Placed upon its passage the 3rd day of January, 1996.

Yes: 6 No: 0

Authenticated by the Mayor the 3rd day of January, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1647

AN ORDINANCE VACATING A PORTION OF SEWARD AVENUE BETWEEN DESCHUTES PLACE AND DIVISION STREET, AND VACATION OF THE ADJACENT ALLEY, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on August 16, 1995 requesting that the following described area be vacated:

> A portion of Seward Avenue between Deschutes Place and Division Street, lying between Blocks 11 and 12, of Lytle from the Parkway to the West Edge of North-South Alley in Block 11, and a portion of the East-West Alley in Block 11 of Lytle from the Parkway to the West Edge of North-South alley, located in the Southeast one-quarter of the Southeast one-quarter of Section 29, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon;

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The Recorder of the City of Bend having caused a notice of public hearing for vacation of public property describing the above portion of SEWARD AVENUE right of way and a portion of the EAST-WEST ALLEY in BLOCKS 11 AND 12 OF LYTLE to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City Recorder having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 20th day of December, 1995, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of right of way of SEWARD AVENUE, and a portion of the EAST-WEST ALLEY, Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 20th day of December, 1995.

Read for the second time the 3rd day of January, 1996.

Placed upon its passage the 3rd day of January, 1996.

Yes: 6 No: 0

Authenticated by the Mayor the 3rd day of January, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS -1648

AN ORDINANCE VACATING A PORTION OF NW WILMINGTON AVENUE, CITY OF BEND, DESCHUTES COUNTY, OREGON.

The Bend City Council on its own motion does hereby amend Ordinance No. NS 1548 for the purpose of vacating the following described area:

> A portion of NW Wilmington Avenue lying in the Northeast portion of Block 3, Bend View Addition; being that portion of NW Wilmington Avenue between the Westerly right of way of NW 6th Street and the Easterly end of that portion of NW Wilmington Avenue already vacated,

and stating the purpose for which the described property is proposed to be used and the reason for such vacation;

The Recorder of the City of Bend having caused a notice of public hearing for vacation of public property describing the above portion of NW WILMINGTON AVENUE right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City Recorder having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 6th day of December, 1995, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of right of way of NW WILMINGTON AVENUE, Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 20th day of December, 1995.

Read for the second time the 3rd day of January, 1996.

Placed upon its passage the 3rd day of January, 1996.

Yes: 6 No: 0

Authenticated by the Mayor the 3rd day of January, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

NOTE:
At the 2/7/96 meeting, the City Council approved a motion to change the name back to Vansil Dr. Marcam to advise how to proceed ~~RE~~ this ordinance. CS

ORDINANCE NO. NS-1649

AN ORDINANCE CHANGING THE NAME OF PANSIE DRIVE WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of Pansie Drive be changed to Wintergreen Drive within the Mountain View Park Subdivision.

Section 2. The effective date for the renaming of this street shall be 30 days following the adoption of this ordinance.

Read for the first time the 20th day of December, 1995.

Read for the second time the 3rd day of January, 1996.

Placed upon its passage the 3rd day of January, 1996.

YES: 6 NO: 0

Authenticated by the Mayor the 3rd day of January, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1650

AN ORDINANCE AMENDING THE CITY'S LAND USE PROCEDURE ORDINANCE BY CHANGING THE SCOPE OF REVIEW WHEN REVIEW IS INITIATED BY THE CITY COUNCIL. THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Section 20 (2) of Ordinance No. NS-1556, the City of Bend Uniform Land Use Procedure Ordinance, is amended to read:

(2) Within the appeal period, the City [Commission] **Council**, acting upon recommendation of the City Manager or upon its own motion, may order a [de novo] review of any lower level decision. Such review shall be [conducted in accordance with appeal procedures as specified herein] **restricted to the record made on the decision being reviewed, unless the City Council determines that a limited hearing to allow additional testimony or other evidence should be held, or unless the City Council determines that a de novo hearing should be held.**

Read for the first time the 3rd day of January, 1996.

Read for the second time the 17th day of January, 1996.

Placed upon its passage the 17th day of January, 1996.

YES: 7 NO: 0

Authenticated by the Mayor the 17th day of January 1996.

Steve Stenkamp

Steve Stenkamp, Mayor

ATTEST:

Patricia S Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1651

AN ORDINANCE AMENDING THE URBAN MEDIUM DENSITY RESIDENTIAL ZONE AND THE URBAN HIGH DENSITY RESIDENTIAL ZONE AND SECTIONS 23 AND 24 OF THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 AND LAND USE PERMIT AND REVIEW PROCEDURES ORDINANCE NO. NS-1556 TO EXPEDITE THE REVIEW PROCESS OF DUPLEXES AND TRIPLEXES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Zoning Ordinance No. NS-1178 is amended as follows:

(1) Section 10-10.11 (1) is amended to read:

Purpose. This zone is intended to provide for the development of low density multiple-family residential structures where such buildings are reasonably spaced on the lot to provide for light, air, privacy, safety and insulation against transmission of sound in areas with community services. Each development of **two** [four] or more units is subject to Site Plan approval as provided in Section 23.

(2) Section 10-10.11 (5) is amended by adding new subsections (f) and (g) to read:

(f) **Side and rear yard setbacks for duplexes and triplexes are subject to standards in Section 23 (d) and (e).**

(g) **For single family residences, the side yard shall be a minimum of five feet on one side and a total of the two side yards shall be 15 feet. The rear yard shall be a minimum of five feet.**

[f]**(h)** Lot Coverage: maximum lot coverage by buildings and structures shall be 40 percent of the total lot area.

[g]**(i)** Zero Lot Line Subdivision or Partition: Regulations for a side yard setback may be waived for an approved zero lot line subdivision or partition.

[h]**(j)** Solar Setback: The solar setback as prescribed in Section 26A.

(3) Section 10-10.12 (2) is amended to read:

Permitted Uses. The following uses are permitted subject to the provisions of Section 23 [, excluding duplexes and triplexes].

(4) Section 10-10.12 (5) is amended by adding new sections (f) and (g) to read:

(f) **Side and rear yard setbacks for duplexes and triplexes are subject to standards in Section 23 (d) and (e).**

(g) **For single family residences, the side yard setbacks shall be a minimum of five feet on one side and the total of the two side yards shall be five feet.**

[f]**(h)** Lot Coverage: Maximum lot coverage by buildings and structures shall be 50 percent of the lot area.

[g]**(i)** Solar Setback: The solar setback as prescribed in Section 26A.

(5) Section 10-10.23 (3) is amended to read:.

Site Plan Requirements. In all zones, except for a single family unit on one lot, all new uses, buildings, outdoor storage or sales areas and parking lots or

alterations thereof shall be subject to the provisions of this section. Site plan approval shall not be required where a proposed alteration of an existing building does not exceed 25% of the original structure unless the Planning Director finds the original structure or proposed alteration does not meet the requirements of this ordinance or other ordinances of the City of Bend. **In the RM and RH zones, duplexes and triplexes may undergo a Type I review process if they meet minimum standards as set forth in Section (11).**

(6) Section 10-10.23 (11) is amended by adding new sections (a)-(l) to read:

Duplex and Triplex Standards

(a) There shall be a minimum of 15% landscaping of live plants. Natural landscaping can count as part of the 15%. If existing trees are proposed to be used to meet the landscaping requirements, the site plan shall show all trees that will be preserved and these shall be protected during construction.

(b) Trees within the setbacks shall be maintained, whenever practical. The planner reviewing the plan shall conduct a site visit with the developer to flag the trees on the site that will be preserved.

(c) All duplexes and triplexes shall plant street trees a maximum of 30 feet apart. The minimum tree diameter shall be 1 ½ inches. Existing trees within the right-of-way or front yard setback that are preserved may count as the required street trees.

(d) The side yard setbacks shall be a minimum of 5 feet on one side and the total of the two side setbacks shall be a minimum of 15 feet for all structures up to 30 feet in height. The front yard setbacks shall be what is required in the zone.

(e) The rear setback shall be a minimum of 5 feet.

(f) The applicant shall install lawn following this formula:
1 & 2 bedroom units: 200 square feet per unit
3 bedrooms +: 300 square feet per unit.
All lawn areas shall have underground irrigation.

(g) An exterior patio or deck may substitute for the lawn, but will not be counted as part of the 15% landscaping. The deck substitution shall be one (1) foot of deck per two (2) feet of lawn.

(h) Each unit shall provide a minimum 6[illegible] square foot enclosed area for storage of outdoor equipment, lawn chairs, barbecues, bicycles, etc. This may be incorporated within the building. These storage areas shall not be located within the setback areas.

(i) Each unit shall provide an enclosure area for trash and recycling. The outdoor storage area and trash area can be combined, provided there is adequate room for both uses.

(j) All drainage shall be maintained on the property. The site plan shall show the direction of drainage on the site and a plan to maintain the drainage on the property, landscaping, drain rock, berms, etc.

(k) Any buildings larger than 3600 square feet will require additional review by the Fire Department and may require installation of additional fire hydrants or waterline improvements.

(7) Section 24 (5) (e) is amended to read:

General provisions - Off Street Parking.

(e) Parking, Front Yard. All paving for **four or more** multi-family, commercial and industrial uses shall not be located within the required front yard setback area except vehicular driveways. Such driveways for multi-family shall not exceed twenty-four (24) feet in width and thirty-five (35) feet in width for commercial and industrial uses. Such paving for parking spaces may be located within a required side or rear yard.

(8) Section 24 (6) (c) is amended to read:

Development and Maintenance Standards for Off-Street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

(c) Except for single-family, duplex **and triplex** dwellings, groups of more than two parking spaces shall be located and served by a driveway so that their use will require no backing movements or other maneuvering within a street or right-of-way other than an alley **if a carport or garage is provided for each unit.**

Section 2. Section 3 (2) of Land Use Permit & Review Procedures Ordinance, No. NS-1556 is amended to read:

3 (2) Type II Activities: land partitions, tentative subdivision plans, planned unit development plans, site plan reviews **for commercial and industrial projects**, variances, conditional use permits, fill and removal permits, "similar use" requests, [and] solar access permits, **and site plan reviews for duplex and triplex dwellings larger than 3,600 square feet and multi-family dwellings with four units or more.**

Read for the first time the 17th day of January, 1996.

Read for the second time the 7th day of February, 1996.

Placed upon its passage the 7th day of February, 1996.

YES: 4 NO: 3

Authenticated by the Mayor the 7th day of February, 1996.

Steve Stenkamp
Mayor

ATTEST:

Patricia S. Saul
Recorder of the City of Bend

ORDINANCE NO. NS-1652

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, Urban Standard Density Residential to IP, General Area Comprehensive Plan.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The Bend City Council held a public hearing, considered and adopted the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change.

Section 2. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend is amended by changing the designation of the following described property from Urban Standard Density Residential (RS) to Industrial Park (IP):

The southwest corner of NW corner of Bear Creek Road and 27th Street, more particularly described as:

A parcel of land located in the Southeast One-Quarter of the Southeast One-Quarter of Section 34, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, being more particularly described as follows:

Beginning at a point on the North right-of-way of Bear Creek Road, with said point being located South 89°45'00" West 662.42 feet, and North 00°48'03" West 30.00 feet from the southeast corner of said Section 34; thence along said right-of-way, South 89°45'00"West 662.51 feet to the West boundary of said Southeast one-quarter of the Southeast one-quarter of Section 34; thence along said boundary, North 00°34'14" West 297.86 feet; thence North 89°48'18" East 661.31 feet; thence North 00°48'03" West 252.01 feet; thence 88.84 feet along the arc of a 130.00 foot radius curve right, of which the chord bears South 59°09'07" East 87.12 feet; thence 170.25 feet along the arc of a 190.00 foot radius curve left, of which the chord bears South 65°14'41" East 164.61 feet; thence North 89°05'07" East 408.27 feet, to the West right-of-way of 27th Street; thence along said right-of-way, South 00°59'42" East 409.12 feet; thence South 89°45'00" West 30.00 feet; thence South 00°59'42" East 20.00 feet to the North right-of-way of Bear Creek Road; thence along said right-of-way South 89°45'00" West 602.42 feet; thence South 00°48'03" East 30.00 feet to the point of beginning.

Containing 13.49 acres more or less.

Read for the first time the 7th day of February, 1996.

Read for the second time the 21st day of February, 1996.

Placed upon its passage the 21st day of February, 1996.

YES: 7 NO: 0

Authenticated by the Mayor the 21st day of February, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1653

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 TO ALLOW CERTAIN SERVICE FACILITIES IN SUPPORT OF APPROVED RESIDENTIAL OR COMMERCIAL USES WITHIN A PLANNED UNIT DEVELOPMENT (PUD).

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. A new subparagraph (j) is added to Section 10.10.30 (7) to read:

(j) Notwithstanding Section 30(4) or the requirements of the underlying zone, a facility providing services in support of approved residential or commercial uses within a Planned Unit Development may be permitted in either commercial or residential zones within the same Planned Unit Development. Services in support of residential or commercial uses include such services as housekeeping, landscape maintenance, security, meeting rooms, clubhouses, swimming pools, tennis courts, catered food service facilities, parking, offices, and related facilities for staff, administrators, owners associations, and owners and their guests. Provisions shall be made to buffer these uses from incompatible uses or adjoining properties.

Read for the first time the 21st day of February, 1996.

Read for the second time the 6th day of March, 1996.

Placed upon its passage the 6th day of March, 1996.

YES: 5 NO: 0

Authenticated by the Mayor the 6th day of March, 1996.

Steve Stenkamp
Mayor

ATTEST:

Patricia S. Steel
Recorder of the City of Bend

ORDINANCE NO. NS-1654

AN ORDINANCE DESCRIBING THE REQUIREMENTS FOR NOMINATION TO THE OFFICE OF CITY COUNCILOR:

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. A new Section 1.270 is added to the Bend Code, to read:

Section 1.270 Nomination of Candidates for City Council.

Candidates for City Councilor can only be nominated for that office by filing a nominating petition; and may not be nominated by filing a declaration of candidacy. The requirements of the nominating petition, and the procedures for filing it, shall as provided by State Law except that the nominating petition shall contain at least 150 signatures of electors within the City of Bend.

Read for the first time the 20th day of March, 1996.

Read for the second time the 3rd day of April, 1996.

YES: 7 NO: 0

Submitted to and authenticated by the Mayor this 3rd day of April, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, Recorder of the City of Bend

ORDINANCE NO. NS-1655

AN ORDINANCE AMENDING THE PARKING REGULATIONS OF THE CITY OF BEND.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 6.030 is amended by adding a new subsection (4) to read:

(4) The City Manager may issue permits, or establish parking regulations or requirements, that the City Manager determines are necessary for the effective utilization and regulation of parking within the City.

Section 2. Bend Code Section 6.195 is amended to read:

6.195 Extending Parking Time. Where maximum parking time limits are designated by sign, movement of a vehicle to another parking space within [*a block*] **500 feet** shall not extend the time limits for parking. **Vehicles so moved that exceed the maximum parking time limits shall be deemed in violation of the parking regulations.**

Section 3. Bend Code Section 6.285 is deleted.

[6.285 Courtesy Permits. The City Manager or designee may make a courtesy parking permit available to a visitor to the City. The permit shall be valid for not more than three days and shall be free. The permit shall authorize the permittee to park a vehicle without regard to time limits in a parking space that allows over 30 minutes continuous parking. The permit shall be displayed in accordance with directions prescribed by the City.]

Section 4. Bend Code Section 6.295 is amended to read:

6.295 Failure to Comply with Parking Citation. [If the operator does not respond to a parking citation affixed to the vehicle within ten working days,] **If the operator does not answer the parking citation or pay the penalty imposed within the required ten days, then** the City shall send a letter to the owner **or lessee** of the vehicle informing the owner **or lessee** of the violation and giving notice that if the citation is [disregarded for a period of thirty days] **not paid then:**

(1) [The fine will be doubled, and] **In addition to the penalty imposed for the citation, a charge shall be imposed to recover the costs associated with collecting the parking citation (including but not limited to the costs of collection letters and of immobilizing and/or impounding the vehicle). This additional charge shall be as determined in the City's Fees and Charges Resolution established pursuant to Bend Code Section 1.800-806.**

(2) [The vehicle may be impounded. A vehicle so impounded shall not be released until all outstanding fines and charges have been paid.] **The vehicle may be immobilized or impounded. A vehicle that has been immobilized or impounded shall not be released until all outstanding penalties and charges have been paid to the City. No person other than an authorized City agent shall remove or attempt to remove an immobilizer device; and no person shall move or attempt to move an immobilized vehicle until the immobilizer device is removed.**

Section 5. Bend Code Section 6.305 is amended to read:

6.305 Owner/Lessee Responsibility. The owner **or lessee** of a vehicle in violation of a parking restriction is responsible for the offense unless use of the vehicle was secured by the operator without the owner's **or lessee's** consent.

Section 6. Bend Code Section 6.900 is amended to read:

6.900 Parking Penalties. A violation of sections 6.150 to 6.285 is punishable by:

[2-Hour Parking Violation
First overtime . . . . . $ 5.00
Each additional overtime unit (2 hours) $10.00
If not paid within 10 days of the ticket $25.00
Vehicles for Sale $25.00
If not paid within 10 days of the ticket $50.00
All other Parking Violations $15.00
If not paid within 10 days of the ticket . . . . . $40.00]
Each overtime violation $10.00
All other parking violations except handicapped parking violations $20.00
Handicapped parking violations . . . . . Amount set by State Law

Section 7. Bend Code Section 6.910 is amended to read:

6.910 Downtown District. [Downtown Parking District]

(1) There is hereby established a downtown [parking] district which shall encompass **all streets, alleys, parking lots and sidewalks within the following boundary description** [the following areas]:

Beginning at the southwest end of the 1200 block of Wall Street, continuing south on Wall Street, to the north side of Newport Avenue. Proceeding west on Newport Avenue to Mirror Pond (Deschutes River). Then proceeding south along the Deschutes River from Newport Avenue to the south side of Franklin Avenue. Continuing east on Franklin Avenue to the west side of Broadway Street. Proceed south on Broadway Street to the south side of Louisiana Avenue. East on Louisiana Avenue from Broadway Street to the west side of Wall Street. South on Wall Street from Louisiana Avenue to the south side of Kansas Street. Continue easterly from Kansas and Wall Street through the Administrative School District property to the southeast corner of the intersection of Kansas and Lava Street. Continue northeast on Lava Street to the north side of Franklin Avenue. Proceed east from the northeast corner of Franklin Avenue and Lava Street to the northeast corner of Harriman Avenue and Franklin Avenue. Proceed north on Harriman Avenue to the north side of Greenwood Avenue. Boundary continues west on Greenwood to the northeast corner of Greenwood Avenue and Bond Street. Proceed north on Bond Street to the west side of Wall Street at the southwest end of the 1200 block. (* Attached as Exhibit A)

[Both sides of Bond Street between Louisiana Avenue and the intersection of Bond Street and Wall Street, both sides of Wall Street between Louisiana Avenue and Vermont Place, the north side of Louisiana Avenue between the alley west of Wall Street and Bond Street, both sides of Franklin Avenue between the west side of Broadway Street and Bond Street, both sides of Minnesota Avenue between Wall Street and Tin Pan Alley, both sides of Oregon Avenue between Brooks and Harriman Streets, the north side of Irving Avenue between Bond and Tin Pan Alley, both sides of Brooks Street between Oregon and Newport Avenues, both sides of Greenwood Avenue between Wall and Harriman Streets, the Mirror Pond parking lots located to the west of Brooks Street, both public parking lots adjacent to the Oregon Street Mall Building which are within the areas enclosed by Oregon Street, Lava Road, Minnesota Avenue and Tin Pan Alley, the public parking lot which is located to the west of Bond Street and which is bordered by the D&D Tavern (Lot 8 and the S. 1/2 of Lot 9, Plat of Bend) and the public parking lot which is located to the south of Hawthorne Avenue between Harriman Street and Lava Road.]

(2) Within the downtown [parking] district designated in subsection (1) of this ordinance, the City Manager **or designee** shall cause each parking space in a street or within an off-street parking area to be clearly marked. The City Manager **or designee** shall determine the necessity for and the size and location of all parking spaces according

[redacted] * Exhibit A
(Ordinance NS-1655
Adopted 6/5/96)

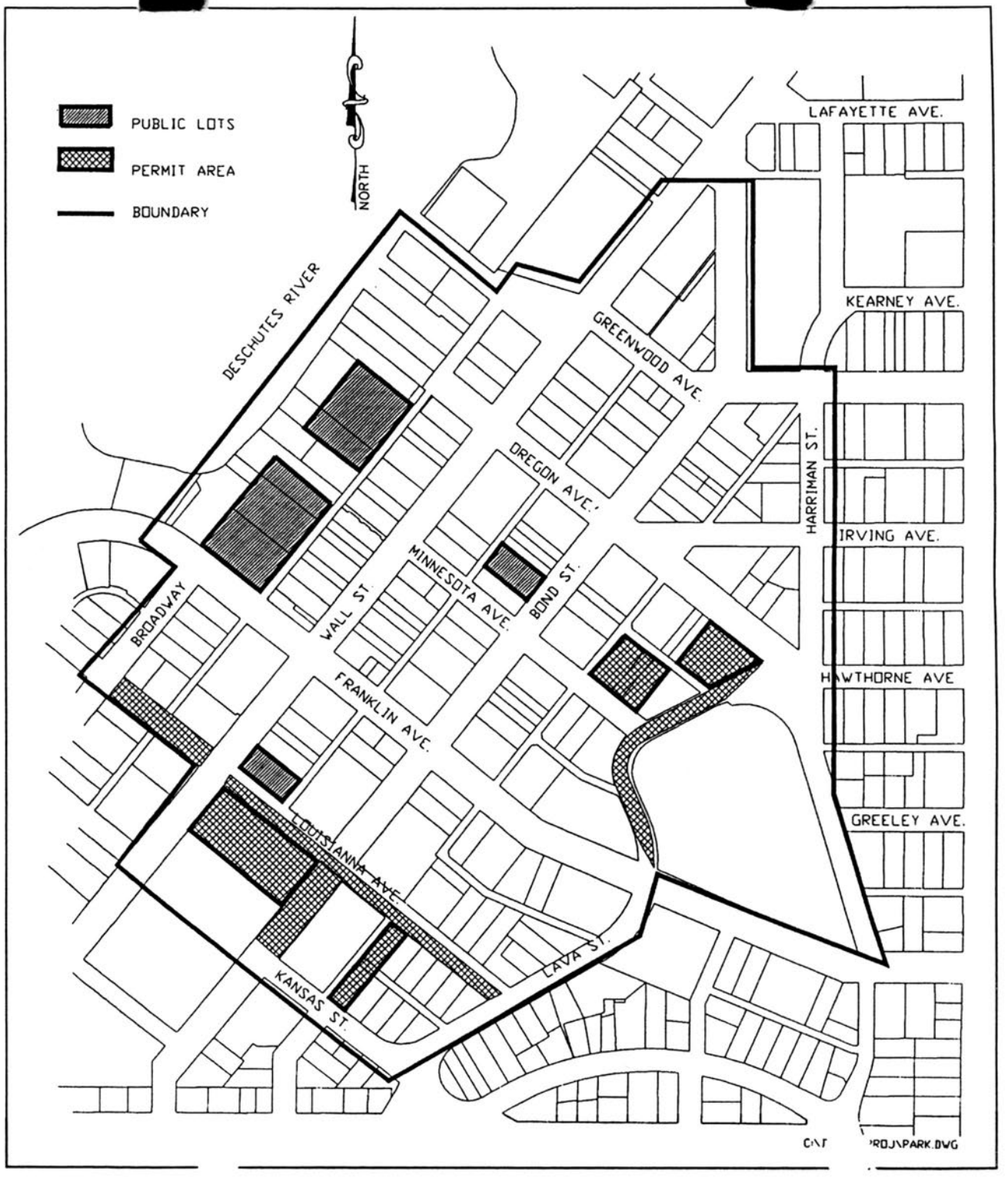
Downtown Parking

General Information

The Downtown Parking District imposes a two-hour time restriction on parking unless otherwise signed. On and off street, long term parking spaces are available at several locations within the Downtown District. Long term parking spaces may be obtained through the City's permit program.

Vehicles violating the posted time restriction limitation are subject to an Overtime penalty in the amount of $10. Failure to remit the $10 penalty within 10 days from the issue date will result in additional collection fees. The City of Bend Code 6.295 provides for the immobilizing and/or impounding of vehicles with unpaid parking ticket penalties.

Continued on back panel



to his **or her** reasonable determination of the safety, convenience and necessity of the public. Such markings may include markings to reserve one or more spaces exclusively for parking of motorbikes, motor scooters, motorcycles, bicycles, **recreational vehicles, other oversized vehicles and any other legally operable vehicle** and handicapped parking.

[(3) No person shall, while at his or her place of employment or during his or her hours of work, cause any motor vehicle owned, operated or controlled by that person, to be parked in any one or more parking spaces upon the public streets or public off-street parking areas within the downtown parking district between 10:00 a.m. and 4:30 p.m. on any day, except that:

(a) This section shall not apply on Sundays or holidays and to persons lawfully parked in a paid rental parking space within the downtown parking area.

(b) Employer-owned or controlled vehicles shall be permitted in designated loading zones, subject to the limitations on the use of such zones contained in this ordinance.

(c) The provisions of Bend Code 6.910 (3) shall not apply to vehicles that display a sticker issued by the City pursuant to Bend Code 6.915.

(4) Any person violating the provisions of Bend Code 6.910 shall pay a fine of $25.00. If this amount is not paid within ten days after the notice was attached to the vehicle, the fine shall be increased to $50.00.]

Section 8. Bend Code Section 6.915 is deleted.

[6.915 The City Manager or designee may issue up to 15 special downtown parking permits on a first-come, first-served basis. The permit will allow the purchaser to park one vehicle without time restriction within the downtown parking district in any City owned or controlled lot in spaces designated for vehicles displaying City issued parking permits or in any one or two hour parking space.]

Read for the first time the 15th day of May, 1996.

Read for the second time the 5th day of June, 1996.

Placed upon its passage the 5th day of June, 1996.

YES: 4 NO: 0 ABSTAIN: 2

Authenticated by the Mayor the 5th day of June, 1996.

Steve Sterkel
Mayor

ATTEST:

Patti S. Stell
Recorder of the City of Bend

ORDINANCE NO. NS-1656

AN ORDINANCE AMENDING THE BEND CODE TO PROVIDE FOR LOCAL ADMINISTRATION OF THE BUILDING CODE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1.

Bend Code Chapter 9 is hereby amended by adding the following new provisions, which shall read:

9.200 The City of Bend Building Official is authorized to administer and enforce following State of Oregon Codes for the City of Bend:

(1) The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015.

(2) The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040.

(3) The Oregon Plumbing Specialty Code, as adopted by 918-750-0010.

(4) The Oregon Electrical Specialty Code, as adopted by OAR 918-290-0010.

(5) The Oregon One and Two Family Dwelling Specialty Code, as adopted by OAR 918-480-000 through 918-480-0010.

(6) The manufactured dwelling park and mobile home park rules adopted by OAR 918-600-0005 through 918-600-0110.

(7) The manufactured dwelling rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020.

(8) The recreational park and organizational camp rules adopted by OAR 918-650-0000 through 918-650-0085.

(9) The 1994 ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by this jurisdiction.

9.202 Title

These regulations shall be known as the City of Bend Building Code, may be cited as such and will be referred to herein as "this code."

9.204 Purpose

The purpose of this code is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of this jurisdiction who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

9.206 Scope

This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way.

Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific

requirement shall be applicable.

Where, in any specific case, there is a conflict between this Code and Oregon Revised Statute, the statute shall govern.

9.208 Definitions

BUILDING OFFICIAL is the officer or other designated authority charged with the administration and enforcement of this code, or the building official's duly authorized representative.

9.210 Alternate Materials and Methods

The provisions of this code are not intended to prevent the use of any alternate material, design or method of construction not specifically proscribed by this code, provided such alternate has been approved and its use authorized by the building official.

The building official may approve any such alternate material, design or method, provided the building official finds that the proposed material, design or method complies with the provisions of this code and that it is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

The building official shall require that evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of any alternate material, design or method shall be recorded and entered in the files of the agency.

9.212 Modifications

When there are practical difficulties in carrying out the provisions of this code, the building official may grant modifications provided the building official finds that the modification is in conformance with the intent and purpose of this code and that said modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the code enforcement agency.

9.214 Tests

Whenever there is insufficient evidence of compliance with the provisions of this code or that any material, method or design does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to this jurisdiction.

Test methods shall be as specified by this code or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures.

All tests shall be made by an approved testing agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records.

9.216 Powers and Duties of Building Official

The building official is authorized to enforce all the provisions of this code.

The building official shall have the power to render written and oral interpretations of this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this code.

9.218 Right of Entry

When it may be necessary to inspect to enforce the provisions of this code, or the building

official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, in violation of this code or which otherwise makes the building or premises unsafe, dangerous or hazardous, the building official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by Oregon law to secure entry.

9.220 Stop Work Orders

Whenever any work is being done contrary to the provisions of this code (or other pertinent laws or ordinances implemented through its enforcement), the building official may order the work stopped by notice in writing served on any person(s) engaged in the doing to causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the building official to proceed thereafter.

9.222 Occupancy Violations

Whenever any building, structure or equipment therein regulated by this code is used contrary to the provisions of this code, the building official may order such use discontinued and the structure (or portion thereof) vacated.

All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the building official in his notice and make the structure, or portion thereof, comply with the requirements of this code.

9.224 Appeals

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the City Council and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

9.226 Plans and Permits

The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees have been paid, the building official shall issue a permit therefor to the applicant.

When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications APPROVED. Such approved plans and specifications shall not be changed, modified and altered without authorizations form the building official, and all work regulated by this code shall be done in accordance with the approved plans.

The building official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

9.228 Retention of Plans

One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than 90 days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

9.230 Validity of Permit

The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction or any other federal, state, or local law, statute, rule, regulations, or ordinance.

The issuance of a permit based on plans, specifications and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinances of this jurisdiction.

9.232 Expiration of Plan Reviews

Applications for which no permit is issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

9.234 Permit Expiration, Extension and Reinstatement

Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section.

Every permit issued by the building official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the building official to indicate the intent to start and complete the project. The building official may require the permittee to document these activities.

Every permit issued by the building official shall expire by limitation and become null and void 24 months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

EXCEPTION: At the time of permit issuance the building official may approve a period exceeding 24 months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within 24 months unreasonable.

Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once.

Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

(a) The Building Code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit.

(b) No changes have been made or will be made in the original plans and specifications for such work.

(c) The original permit expired less than one year from the request to reinstate.

The fee for a reinstated permit shall be one-half the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required.

9.236 Work Without a Permit/Investigation Fees

Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

9.238 Suspension/Revocation

The building official may, in writing, suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provisions of the City code.

9.240 Inspections

It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the building official. The permit holder shall not proceed with construction activity until authorized to do so by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card such as to allow the building official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the building official.

9.242 Fees

Fees charged under this code shall be as provided by City Ordinance, Resolution, or policy.

The building official may authorize the refunding of fees paid in accordance with the refund policy in effect in the jurisdiction.

The determination of value or valuation under any provisions of this code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

9.244 Severability

If any section, paragraph, subdivision, clause, sentence, or provisions of this Code shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the Code, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this Code notwithstanding the parts to be declared unconstitutional and invalid.

9.246 Violation and Penalty

(1) No person, organization or corporation shall violate the codes administered by this ordinance.

(2) A violation of Bend Code 9.202 to 9.246 is a Class A infraction, unless some other penalty is specified in the applicable specialty code or State law. In the case of a continuing violation, every day's continuance of the violation shall be considered a separate offense.

Section 2. The following sections of the existing Building Code are hereby repealed:

Sections 9.200, 9.202, 9.204, 9.206 and 9.208.

Section 3. Declaration of Emergency

The City Council declares that an emergency exists in order that there be no delay in initiating the administration of the City of Bend Electrical and Fire Life Safety programs as provided by the delegation of authority from the State of Oregon. Therefore, this Ordinance shall be in force and effect on July 1, 1996.

Read for the first time the 5th day of June, 1996.

Read for the second time the 19th day of June, 1996.

Placed upon its passage the 19th day of June, 1996.

YES: 7 NO: 0

Authenticated by the Mayor the 19th day of June, 1996.

Steve Stenkey
MAYOR

ATTEST:

Patricia S. Stan
RECORDER, City of Bend

ORDINANCE NO. 1657

AN ORDINANCE AMENDING THE CITY OF BEND CODE TO PROVIDE FOR ADDITION OF NEW FEES AND SERVICE CHARGES

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1.

The City of Bend Code Chapter 1, Section 1.806, is hereby amended to include the following description of service and the percentage of cost to be recovered:

	CITY SERVICE	PERCENTAGE OF COSTS TO BE RECOVERED
(1)	**Electrical Permits**	**100%**
(2)	**Plumbing Plan Review**	**100%**
(3)	**Mechanical Plan Review**	**100%**
(4)	**Electrical Plan Review**	**100%**
(5)	**Fire & Life Safety Plan Review**	**100%**

Section 2.

Declaration of Emergency

The City Council declares that an emergency exists in order that there be no delay in initiating the administration of the City of Bend Electrical and Fire Life Safety programs as provided by the delegation of authority from the State of Oregon. Therefore, this Ordinance shall be in force and effect on July 1, 1996.

Read for the first time the 5th day of June, 1996.

Read for the second time the 19th day of June, 1996.

Placed upon its passage the 19th day of June, 1996.

YES: 7 NO: 0

Authenticated by the Mayor the 19th day of June, 1996.

Steve Ellenburg
MAYOR

ATTEST:

Patricia S. Stell
RECORDER, City of Bend

ORDINANCE NO. NS-1658

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO CC, CONVENIENCE COMMERCIAL, AND THREE PARCELS FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated November 21, 1995.

Section 2. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from Urban Standard Density Residential (RS) to Convenience Commercial (CC):

Lot 21, Mt. Washington Drive/Awbrey Road Area Subdivision, Bend, Deschutes County, Oregon

Containing 3 acres more or less

and the designation of the following described property from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM):

Lots 18, 19 and 20, Mt. Washington Drive/Awbrey Road Area Subdivision, Bend, Deschutes County, Oregon

Containing 12.2 acres more or less

Read for the first time the 19th day of June, 1996.

Read for the second time the 3rd day of July, 1996.

Placed upon its passage the 3rd day of July, 1996.

YES: 6 NO: 0

Authenticated by the Mayor the 3rd day of July, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1659

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated May 22, 1996.

Section 2. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from Urban Standard Density Residential (RS) to Urban Medium Density Residential Zone (RM):

The west 1/2 of Lots 3 and 4, Block 9, Kenwood Gardens, City of Bend, Deschutes County, Oregon

Containing 10,000 square feet more or less

Read for the first time the 3rd day of July, 1996.

Read for the second time the 17th day of July, 1996.

Placed upon its passage the 17th day of July, 1996.

YES: 4 NO: 0 ABSTAIN: 1

Authenticated by the Mayor the 17th day of July, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, Recorder of the City of Bend

ORDINANCE NO. NS-1660

AN ORDINANCE AUTHORIZING THE USE OF OREGON UNIFORM TRAFFIC CITATIONS FOR CIVIL INFRACTIONS.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Bend Code Section 1.708 is amended to read:

1.708 Citation and Complaint. **The OREGON UNIFORM TRAFFIC CITATION AND COMPLAINT form may be used as the citation, complaint and summons for purposes of enforcing civil infractions.** [A citation conforming to Exhibit "A" attached to this chapter and incorporated by reference shall be used for all infractions, except traffic offenses. Additional parts may be inserted by law enforcement agencies or the Municipal Court for administrative use.]

Section 2. An emergency is declared because the City's supply of citation forms that will be discontinued is nearly exhausted; and there will be a sizeable cost savings if the OREGON UNIFORM TRAFFIC CITATION AND COMPLAINT forms are authorized before it becomes necessary to order more of the citation forms that will be discontinued. Therefore, this ordinance shall be in force and effect upon its passage.

Read for the first time the 3rd day of July, 1996.

Read for the second time the 17th day of July, 1996.

Placed upon its passage the 17th day of July, 1996.

YES: 5 NO: 0

Authenticated by the Mayor the 17th day of July, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, Recorder of the City of Bend

ORDINANCE NO. NS-1661

AN ORDINANCE AMENDING THE CITY OF BEND SUBDIVISION ORDINANCE NO. NS-1349 TO REDUCE THE STREET WIDTH TO A MINIMUM OF 30 FEET IN THE URBAN STANDARD DENSITY RESIDENTIAL ZONES (RS).

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The findings of fact determined by the Bend Urban Planning Commission in its hearing on this matter on April 22, 1996, are adopted.

Section 2. The Pavement Width column of Table A of Bend Subdivision Ordinance No. NS-1349 shall be amended to read as shown on the revised Table A, attached hereto and incorporated by reference herein.

Read for the first time the 17th day of July, 1996.

Read for the second time the 7th day of August, 1996.

Placed upon its passage the 7th day of August, 1996.

YES: 5 NO: 0

Authenticated by the Mayor Pro Tem the 7th day of August, 1996.

Tom DeWolf, Mayor Pro Tem

ATTEST:

Recorder of the City of Bend

TABLE "A"

CITY OF BEND
MINIMUM STREET RIGHT OF WAY AND
BASIC IMPROVEMENT STANDARDS

Ordinance No. NS-1349

Type of Street	Right of Way width (feet)	Pavement Width (feet) (1)	Turn Lane Width (feet)	Pave-ment Depth	Base Depth (2)	Design Speed	Maximum Grade (3)	Minimum Tangent & Curve	Curb Type	Signs	Side-walks
Principal Arterial	80-100	60-80	12-14	(8)		(8)	6%	(8)	16" std.	(10)	(11)
Minor Arterial	80	40-52	12-14	3" AC	8"	(9)	6%	(9)	12" std.		
Collector	60-80	36-52 (6)	12-14	3" AC	6"	(9)	8%	(9)	12" std.		
Local	50-60 (5)	30-36 (7)	--	2" AC	6"	(9)	10%	(9)	12" std.		
Industrial	60	44	--	3" AC	8"	(9)	6%	(9)	16" std.		
Cul-de-sac (4)	60	36	--	2" AC	4"	(9)	10%	(9)	12" std.		
Alley	20	20	--	2" AC	4"	(9)	10%	---	---		

(1) Where a roadway includes bike lanes, additional pavement width will be required: two 6 foot wide bike lanes on arterials and two 5 foot (min.) bike lanes on collectors.

(2) Base may be increased or decreased when a C.B.R. or R-value is required.

(3) Increase in grade by 2% may be granted in unusually steep areas. Narrower local streets may be approved when terrain or other factors warrant. Sidewalks on one side of a street may be approved in steep terrain.

(4) Right of way may be reduced to 50' for cul-de-sac less than 200 feet in length to the turnaround. The cul-de-sac bulb shall be a minimum of 50" radius with a 40' paving section. Maximum length of cul-de-sac shall be 600 feet.

(5) Widths may be increased when 5 foot wide bicycle lanes are required on each side.

(6) Width of 36' can be used only with no access from private property and with bike lanes (no parking).

(7) 30' street width in single family zones and 36' street width in multi-family zones. Lesser street width may be approved through the variance procedure.

(8) Structural section, cross section, and design standards as required by Oregon Department of Transportation.

(9) Design criteria as approved by the City of Bend and no less than current AASHTO standards.

(10) One street sign shall be provided at each intersection for each street.

(11) Location and width to be determined. Minimum width at property line is 4 feet; at curb line is 5 feet.

[Resolution No. 1764, 7-17-85; Table A amended by: Ord. No. NS-1529, 3-20-91; Ord. No. NS-1592, 6-2-93; Ord. No. NS-1661, 8-7-96]

ORDINANCE NO. NS-1662

AN ORDINANCE ESTABLISHING PROCEDURES FOR ECONOMIC IMPROVEMENT DISTRICTS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The purpose of this ordinance is to establish procedures for establishing economic improvement districts within the City of Bend, and assessing the costs of economic improvement projects within these districts. This ordinance is intended to implement ORS 223.112 to 223.132 as they exist, and as they may be amended in the future. The procedures required by state law and this ordinance shall be followed.

Section 2. A public hearing shall be held on an assessment ordinance for any proposed economic improvement project within an economic improvement district. Notices of the hearing shall be mailed or delivered personally to the affected commercial property owners. The hearing shall be held not sooner than 30 days after the mailing or delivery of the notices. The owners may appear to support or object to the proposed improvement and assessment at the hearing.

Section 3. If, after the hearing held pursuant to Section 2, the City Council determines that the economic improvement shall be made, the Council shall determine whether the property benefitted shall bear all or a portion of the cost and shall determine, based on the actual or estimated cost of the economic improvement, the amount of assessment on each lot in the district. The City Recorder shall then prepare the proposed assessment for each lot in the district. Notice of such proposed assessment shall be mailed or personally delivered to the owner of each lot or parcel to be assessed, which notice shall state the amount of the assessment proposed on the property of the owner receiving the notice. The notice shall state the time and place of another public hearing at which affected property owners may appear to support or object to the proposed assessment. This hearing shall not be held sooner than 30 days after the mailing or personal delivery of the notices.

Section 4. At this second hearing, the Council shall consider objections, and may adopt, correct, modify, or revise the proposed assessments. The assessment ordinance shall also provide that the assessments will not be made and the economic improvement district terminated when written objections are received at the public hearing from owners of property upon which more than 33 percent of the total amount of assessments is levied.

Section 5. If written objections are received at the second public hearing from less than 33 percent of the total amount of assessments levied, the City Council, may, at its discretion, provide that the economic improvement project may be undertaken or constructed but that property whose owners submitted written objections will not be assessed. If the City Council elects to follow this procedure, it shall proceed as provided in ORS 223.118.

Section 6. Upon adoption of the final assessment ordinance the City Recorder shall enter each assessment in the docket of City liens. All such assessments shall be collected in the same manner as local improvements according to state law, the City of Bend Charter and ordinances.

Section 7. Money derived from the assessments levied under the procedures set forth in this ordinance shall be spent only for projects and activities set out in ORS 223.112.

Read for the first time the 21st day of August, 1996.

Read for the second time the 4th day of September, 1996.

Placed upon its passage the 4th day of September, 1996.

YES: 7 NO: 0

Authenticated by the mayor the 4th day of September, 1996.

Steve Sterkel
MAYOR

ATTEST:

Patsi S. Stell
City Recorder

97-07117 439 - 2738

ORDINANCE NO. NS-1663

AN ORDINANCE VACATING THE ALLEY THAT LIES BETWEEN LOTS 4, 5 AND 6 OF BLOCK 5 AND BLOCK 8 AS SHOWN ON THE PLAT OF THE NORTH ADDITION TO BEND, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on May 15, 1996 requesting that the following described area be vacated:

> The alley that lies between lots 4,5 and 6 of Block 5 and 8 as shown on the plat of the North Addition To Bend, located in the Southwest one-quarter of the Northeast one-quarter of Section 32, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon;

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 7th day of August, 1996, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of alley right of way located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record. The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 7th day of August, 1996.

Read for the second time the 4th day of September, 1996.

Placed upon its passage the 4th day of September, 1996.

Yes: 7 No: 0

Authenticated by the Mayor the 4th day of September, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

CITY OF BEND WPL

439 - 2739

STATE OF OREGON)
COUNTY OF DESCHUTES) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND RECORDER OF CONVEYANCES, IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS RECORDED THIS DAY:

97 MAR -4 AM 11:51

MARY SUE PENHOLLOW
COUNTY CLERK

BY. T. Moore DEPUTY

NO. 97-07117 FEE 10.00

DESCHUTES COUNTY OFFICIAL RECORDS

ORDINANCE NO. NS-1664

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RH, URBAN HIGH DENSITY RESIDENTIAL TO CC, CONVENIENCE COMMERCIAL.

THE CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated July 24, 1996.

Section 2. Section 7 (1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from RH, Urban High Density Residential to CC, Convenience Commercial:

Lots 3, 4, 5, 6, and 7, 13 and 14, Pilot Butte Professional Park, Within the City of Bend, Deschutes County, Oregon.

Read for the first time the 4th day of September, 1996.

Read for the second time the 18th day of September, 1996.

Placed upon its passage the 18th of September, 1996.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of September, 1996.

Steve Stenkamp

Steve Stenkamp, Mayor

ATTEST:

Patricia S Stell

Patricia Stell, Recorder of the City of Bend

ORDINANCE NO. NS-1665

AN ORDINANCE VACATING THE QUIMBY AVENUE RIGHT OF WAY BETWEEN HILL STREET AND NE DESCHUTES PLACE, AND VACATING THE ALLEYS WITHIN BLOCK 15 & 16 OF LYTLE ACRES, AND VACATING PENN AVENUE BETWEEN HILL STREET AND DESCHUTES PLACE, AND VACATING NE DESCHUTES PLACE FROM THE EXTENSION OF THE SOUTHERLY EDGE OF PENN AVENUE TO THE EXTENSION OF THE EASTERLY EDGE OF HILL STREET AS SHOWN ON THE PLAT OF LYTLE ACRES, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 19, 1996 requesting that the following described area be vacated:

> The Quimby Avenue right of way between block 15 & 16 of Lytle Acres subdivision and between Hill Street and NE Deschutes Place, and vacating the alleys within Block 15 & 16 of Lytle Acres subdivision and vacating Penn Avenue between the Easterly line of Hill Street and the Westerly line of Deschutes Place, located in the Southeast one-quarter of the Southeast one-quarter of Section 29, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon. Together with, Deschutes Place from the Easterly line of Hill Street and the Southerly line of Penn Avenue located within the unrecorded tracts of Lytle Acres subdivision, located in the Northeast one-quarter of the Northeast one-quarter of Section 32, Township 17 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon;

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 4th day of September, 1996, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described street and alley right of way located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 4th day of September, 1996.

Read for the second time the 18th day of September, 1996.

Placed upon its passage the 18th day of September, 1996.

Yes: 7 No: 0

Authenticated by the Mayor the 18th day of September, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1666

AN ORDINANCE VACATING A PORTION OF THE ALLEY THAT LIES WITHIN BLOCK 153 AS SHOWN ON THE PLAT OF THE SECOND ADDITION TO BEND, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 19, 1996 requesting that the following described area be vacated:

> Extending from the eastern edge of South Hill Street, the westerly 175 feet of the alley that lies within Block 153 as shown on the plat of the Second Addition To Bend, located in the Northeast one-quarter of the Southeast one-quarter of Section 5, Township 18 South, Range 12 East, of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon;

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 4th day of September, 1996, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of alley right of way located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 4th day of September, 1996.
Read for the second time the 18th day of September, 1996.
Placed upon its passage the 18th day of September, 1996.

Yes: 7 No: 0

Authenticated by the Mayor the 18th day of September, 1996.

Steve Stenkamp

Steve Stenkamp, Mayor

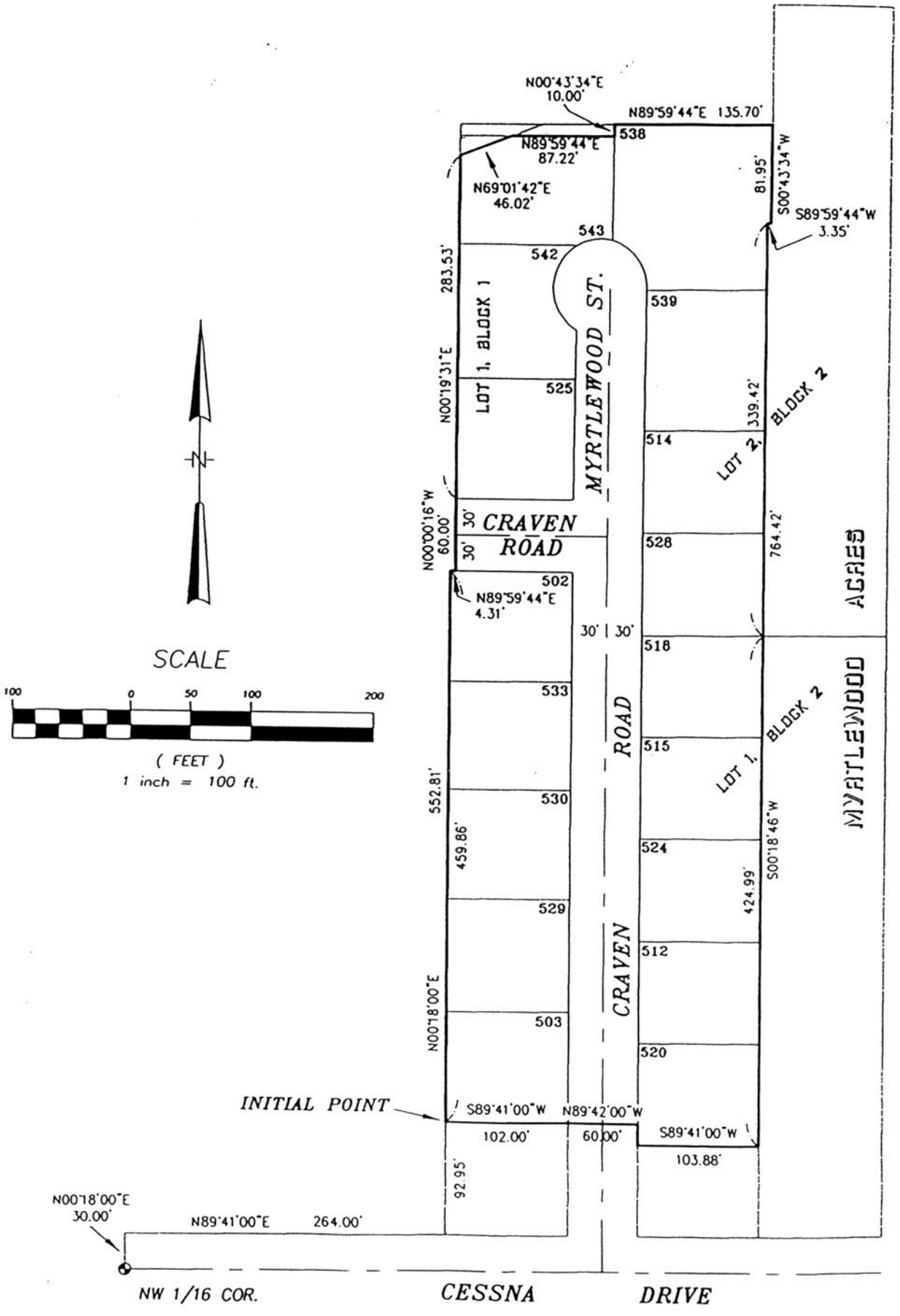
ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

EXHIBIT "A"

A PORTION OF THE NW 1/4 OF SEC. 3, T. 18 S., R. 12 E., W.M. DESCHUTES COUNTY, OREGON



ORDINANCE NO. NS-1667

AN ORDINANCE TO ANNEX TERRITORY, WHICH IS LOCATED IN THE VICINITY OF MYRTLEWOOD STREET AND CRAVEN ROAD, TO THE CITY OF BEND.

WHEREAS, ORS 222.170 (2) provides for annexation of real property to cities when property owners of more than half of the land and a majority of electors registered in the territory proposed to be annexed consent to said annexation; and

WHEREAS, the City Council has found the owners of a majority of the land in the below described territory, which is territory proposed to be annexed to the City of Bend, have consented, in writing, to annex their property to the City of Bend and have filed a statement of their consent with the City Council; and

WHEREAS, the City Council has determined that there are 22 electors within the below described territory; and

WHEREAS, the City Council has fixed October 2, 1996, as the date for a public hearing before the Council at which time the electors of the City and others may appear and be heard on the question of the annexation; and

WHEREAS, notice of the above hearing was published once each week for two successive weeks prior to the day of the hearing, in The Bulletin, a newspaper of general circulation in the City of Bend, and notices of the hearing were posted in at least four public places in the City for a like period; and

WHEREAS, a public hearing was held on October 2, 1996, on the question of this annexation; and

WHEREAS, all statements of consent from electors and property owners in the territory to be annexed were filed on or before October 2, 1996, and prior to said public hearing; and

WHEREAS, the below described territory is contiguous to the City limits of the City of Bend; and

WHEREAS, the below described territory is located within the Deschutes County Rural Fire Protection District No. 2, hereinafter referred to as "District"; and

WHEREAS, the City has determined that the territory to be annexed to the City that is currently located within the district should be withdrawn from the District; now therefore,

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. That the following described territory (Exhibit A attached) is hereby declared to be annexed to the City of Bend:

All that property being a portion of the northwest quarter (NW1/4) of Section 3, Township 18 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, described as follows:

Commencing at the northwest sixteenth (NW1/16) corner of said Section 3; thence North 00°18'00" East, 30.00 feet to the north right-of-way of Cessna Drive; thence along said right of way, North 89°41'00" East, 264.00 feet; thence leaving said right of way, North 00° 18'00" East, 92.95 feet to the southwest corner of that parcel of land conveyed to Bob and Theresa Skarsten by deed recorded in Volume 355 at page 0791 of Official Records, said point also being the True Point of Beginning of this description; thence continuing northerly, North 00°18'00" East, 459.86 feet to the south right-of-way of Craven Road; thence along said right-of-way, North 89°59' 44" East, 4.31 feet; thence leaving said right-of-way, North 00°00'16" West, 60.00 feet to the north right-of-way of said Craven Road and the southwest corner of Lot 1 of Block 1 of Myrtlewood Acres as shown on that map filed with the Deschutes County Surveyor as File No. CS 08366; thence along the west line of said Lot 1 of Block 1, North

00°19'31" East, 283.53 feet to the southerly corner of that parcel of land conveyed to Margretta Huff by deed recorded in Volume 152 at Page 198 of Official Records; thence along the southerly line of said parcel, North 69° 01'42" East, 46.02 feet to a point on a line that lies parallel and 10.00 feet southerly of the north line of said Lot 1 of Block 1; thence along said line, North 89°59' 44" East, 87.22 feet to a point on the centerline of that portion of Myrtlewood Street that has been vacated; thence North 00°43'34" East, 10.00 feet to the north line of said Myrtlewood Acres; thence along said north line, 89°59'44" East, 135.70 feet to the northeast corner of that parcel of land conveyed to Gordon and Lynda Hillesland by deed recorded in Volume 92 at page 407 of Official Records; thence along the east line of said Hillesland parcel, South 00° 43'34" West, 81.95 feet to the southeast corner of said parcel; thence along the south line of said parcel, South 89° 59' 44" West, 3.35 feet to a point on the east line of the west half (W1/2) of Lot 2 of Block 2 of said Myrtlewood Acres; thence along said east line; South 00°18'46" West, 339.42 feet to the south line of said Lot 2 of Block 2; thence along the east line of the west half (W1/2) of Lot 1 of Block 2 of said Myrtlewood Acres, South 00°18'46" West, 425.00 feet to the southeast corner of that parcel of land conveyed to John and Anne Wear by deed recorded in Volume 307 at Page 1670 of Official Records; thence along the south line of said Wear parcel, South 89° 41'00" West, 103.88 feet to the east right-of-way of Craven Road; thence along said right-of-way, North 00°18'00" East, 17.31 feet; thence leaving said east right-of-way, North 89°42'00" West, 60.00 feet to the West right-of-way of Craven Road and the southeast corner of said Skarsten parcel; thence along the south line of said Skarsten parcel, South 89° 41'00" West, 102.00 feet to the Point of Beginning.

Contains 5.04 acres, more or less.

SECTION 2. That the above-described territory is hereby withdrawn from the Deschutes County Rural Fire District upon the effective date of this ordinance.

SECTION 3. That the City hereby elects to assume those obligations specified in ORS 222.520 (2)(b)("Annexation of less than entire district").

READ for the first time the 2nd day of October, 1996.

READ for the second time the 16th day of October, 1996.

PLACED upon its passage the 16th day of October, 1996.

YES: 7 NO: 0

Authenticated by the Mayor the 16th day of October, 1996.

Steve Stenkamp

Steve Stenkamp, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, Recorder of the City of Bend

ORDINANCE NO. NS-1668

AN ORDINANCE AMENDING THE CITY'S SEWER ASSESSMENT PROCEDURES ORDINANCE BY USING THESE PROCEDURES FOR ALL LOCAL IMPROVEMENTS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 4.300(2) is amended to read:

(2) **"Local improvements" shall have the same meaning as provided by state law (currently for ORS 223.001(9), and shall include, but not be limited to sewer facilities such as sewer mains, interceptors, drains, manholes, pump stations and any other devices in the delivery of sewage to the sewer treatment plant; water facilities such as water mains, transmission lines, distribution lines, valves, hydrants, reservoirs, pump stations and any other device used in the delivery of water; streets (including alleys and any other public way); and sidewalks.**

["Sewer facilities" shall include but not be limited to sewer mains, interceptors, drains, manholes, pump stations and any other device used in the delivery of sewage to a sewer plant.]

Section 2. The term "local improvements" shall be substituted for the term "sewer facilities" wherever that term appears in Bend Code Section 4.300 through 4.388.

Section 3. The term "local improvement district" shall be substituted for the term "sewer assessment district" wherever that term appears in Bend Code Section 4.300 through 4.388.

Section 4. The term "City Council" shall be substituted for the term "City Commission" wherever that term appears in Bend Code Section 4.300 through 4.388.

Section 5. The water assessment district provisions contained in Bend Code Section 2.500 through 2.538 are repealed.

Read for the first time the 4th day of December, 1996.

Read for the second time the 18th day of December, 1996.

Placed upon its passage the 18th day of December, 1996.

YES: 7 NO: 0

Authenticated by the mayor the 18th day of December, 1996.

Steve Stenkamp, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1669

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, SECTION 10-10.12, (2) URBAN HIGH DENSITY RESIDENTIAL ZONE, TO ADD NEW USES WITHIN THE ZONE.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Zoning Ordinance No. NS-1178 is amended as follows:

(1) Section 10-10.12 (2) is amended by adding new subsection (m) to read:

(m) **Incidental services in commercial buildings, including restaurants, florist, barber shop, beauty shop, hobby shop included within an existing building otherwise permitted in the RH zone. There shall be no signs visible from the exterior of the building, there shall be no exterior public access to the use, the hours of operation shall be limited to the hours for the uses permitted in the building and there shall be no exterior seating or displays. The parking for such uses shall be limited to one space per 300 square feet of gross floor area. These uses shall be limited in size to commercial buildings with the following gross square footage:**

Buildings 10,000 to 50,000 square feet	**1,000 square feet**
Buildings over 50,000 square feet	**1,500 square feet**

Read for the first time the 15th day of January, 1997.

Read for the second time the 5th day of February, 1997.

Placed upon its passage the 5th day of February, 1997.

YES: 7 NO: 0

Authenticated by the Mayor the 5th day of February, 1997.

Mayor

ATTEST:

Recorder of the City of Bend

ORDINANCE NO. NS-1670

AN ORDINANCE AMENDING CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY ADDING DESIGN REVIEW AND CREATING A NEW ZONE CALLED DESIGN REVIEW OVERLAY AND AMENDING THE ZONING MAP TO SHOW THE NEW ZONE AND AMENDING CERTAIN SECTIONS OF CITY OF BEND ZONING ORDINANCE NO. NS-1178.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. A new Section 23A shall be added to City of Bend Zoning Ordinance No. NS 1178, to read as follows:

Section 23A. Design Review.

(1) Purpose. The purpose of this ordinance is to provide design standards for commercial development within the Design Review Overlay Zone. These standards ensure that the public health, safety and general welfare are protected and the general interest of the public is served. The standards provide for originality, flexibility and innovation in site planning and development, including architecture, landscaping, transit, parking design, signs and enhancement of the special characteristics that make Bend a unique place to live.

(2) Ordinance Provisions. Except as exempted by paragraph (3), the provisions of this ordinance shall apply to the following activities within the Design Review Overlay Zone as indicated on the City of Bend zoning ordinance map:

(a) All new building construction.

(b) Any exterior modifications to existing buildings.

(c) All new parking lots.

(d) All outdoor storage and display areas.

(e) All new signage.

(f) All building expansions greater than 10,000 square feet.

(3) Exemptions. This ordinance does not apply to the following activities:

(a) Maintenance of the exterior of an existing structure such as re-painting, re-roofing or re-siding where similar materials and colors are used or materials and colors are used that comply with this Ordinance.

(b) Interior remodeling.

(c) Reconstruction of buildings located on properties within the Design Review Overlay Zone which have been destroyed or substantially damaged by fire or natural causes. The building(s) shall be reconstructed on the same location as it existed prior to damage or destruction. Reconstruction shall commence within one (1) year of the damage or destruction.

(d) Building expansions not exceeding 25% of the gross square footage of the original building and where the expansion does not exceed 10,000 square feet in area.

(e) Parking lot expansions not exceeding 25% of the gross square footage of the original lot and where the total amount of parking provided will not exceed 150% of the parking allowed by the Zoning Ordinance.

(f) Buildings that are listed in the Inventory of Historic Sites within the Bend Area

General Plan, Exhibit "A", or buildings designated on the Historic National Landmarks Register.

(4) Process. The review authority (the Development Services Director or Hearings Officer, if the Director's decision is appealed) shall approve, approve with conditions or deny an application based upon compliance with the site plan criteria, design review standards, conformance with the Bend Area General Plan and all City laws, rules and regulations. Approval shall be obtained from the review authority prior to the issuance of a building permit for all activities described in Paragraph (2) of this section.

(5) Application Requirements. The applicant shall attend the City of Bend pre-application meeting prior to filing an application for Design Review with the City. After attending the pre-application meeting the applicant shall file an application for Design Review with the City. This application may be filed in conjunction with other permits when the property is subject to other land use action. The application shall be accompanied by pertinent materials containing information as specified by the City. The application form lists the required submittal information.

(6) Standards for Approval. The review authority shall use the standards in this section and the criteria for site plan review to ensure compliance with the purpose of Design Review.

(a) THE STANDARDS OF APPROVAL FOR BUILDINGS 30,000 GROSS SQUARE FEET OR LESS, AND SITES LESS THAN 6 ACRES IN SIZE ARE AS FOLLOWS:

(A) Natural Features
Buildings shall be sited to protect areas of special interest as defined in the Bend Area General Plan. Other natural features such as natural grade, trees, vegetation and rock outcroppings are encouraged to be incorporated into the overall site plan and may be calculated as part of the landscaping requirement if healthy and not damaged during construction.

(B) Building Location and Orientation
New buildings shall have at least one principal building entrance oriented toward the primary frontage property line and comply with the transit requirements of the State of Oregon Transportation Planning Rule.

(C) Pedestrian Walkways

(1.) Walkways From the Sidewalk To Building Entrances.
A continuous pedestrian walkway shall be provided from the primary frontage sidewalk for pedestrians to access building entrances. This internal walkway shall incorporate a mix of landscaping, benches, drop-off bays and bicycle facilities for at least 50% of the length of the walkway. This walkway is necessary for persons who will access the site by walking, biking or transit. Walkways shall be connected to adjacent sites wherever practicable.

(2.) Walkways From Parking Areas To Building Entrances.
Internal pedestrian walkways shall be developed for persons who need access to the building(s) from the parking pods. The walkways shall be located within the pods and shall be designed to provide access from the pods to the entrances of the building(s). The walkways shall be designed to separate people from moving vehicles as much as possible. These walkways shall have a minimum width of 5 feet with no car overhang or other obstruction. The walkways must also be designed for disabled access according to the Uniform Building Code. This may require the walkways to be widened or modified. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored

concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.

(D) Mechanical Equipment and Service Areas
Mechanical equipment and service areas shall be screened with visual barriers from adjacent properties, public roadways, parks, or other public areas. The architectural design of the building shall incorporate design features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.

(E) Building Design

(1.) Exterior Building Design.
Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls which can be viewed from public streets shall be designed using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.

Architectural Features
Architectural features include, but are not limited to the following: recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the review authority.

In addition, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements are in Section 10-10.23 (9) of this Ordinance.

Building Materials
The predominant building materials should be materials that are characteristic of Central Oregon such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building.

(2.) Roof Design.
Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged. Architectural methods shall be used to conceal flat roof tops. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged. Mansard style roofs are discouraged.

(3.) Customer Entrances.
Clearly defined, highly visible customer entrances using features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged.

(4.) Community Amenities
Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement.

(F) Building and Sign Colors
Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors such as black, neon, metallic or florescent for the facade and/or roof of the building are prohibited except as approved for building trim. The City of Bend color guide provides samples of approved and prohibited colors. The use of trademark colors will require approval.

(G) Lighting and Flag Poles
The lighting shall be shielded and directed down onto the site and not shine or glare onto adjacent property or streets. Light poles and/or fixtures and flag poles shall not exceed 25 feet in height.

(H) Signage
A comprehensive signage plan shall be required pursuant to the City of Bend Sign Code except that pole signs are prohibited. Ground mounted signs shall not exceed 10 feet in height and 8 feet in width. Wider signs may be allowed provided the total area of the sign does not exceed 80 square feet. All sign bases shall be constructed of materials compatible with the architecture of the building(s) located on the premises. White, ivory and yellow backgrounds of internally illuminated signs shall not exceed 20% of the total sign area, including reader boards.

(b) THE STANDARDS OF APPROVAL FOR BUILDINGS GREATER THAN 30,000 GROSS SQUARE FEET AND/OR SITES 6 ACRES OR LARGER ARE AS FOLLOWS:

(A) Natural Features
Buildings shall be sited to protect areas of special interest as defined in the Bend Area General Plan. Other natural features such as natural grade, trees, vegetation and rock outcroppings are encouraged to be incorporated into the overall site plan and may be calculated as part of the landscaping requirement if healthy and not damaged during construction.

(B) Building Location and Orientation
New buildings shall have at least one principal building entrance oriented toward the primary frontage property line and comply with the transit requirements of the State of Oregon Transportation Planning Rule.

(C) Pedestrian Walkways

(1.) Walkways From the Sidewalk To Building Entrances.
A continuous pedestrian walkway shall be provided from the primary frontage sidewalk for pedestrians to access building entrances.This internal walkway shall incorporate a mix of landscaping, benches, drop-off bays and bicycle facilities for at least 50% of the length of the walkway. This walkway is necessary for persons who will access the site by walking, biking or transit. Walkways shall be connected to adjacent sites wherever practicable.

(2.) Walkways From Parking Areas To Building Entrances.
Internal pedestrian walkways shall be developed for persons who need access to the building(s) from the parking pods. The walkways shall be located within the pods and shall be designed to provide access from the

pods to the entrances of the building(s). The walkways shall be designed to separate people from moving vehicles as much as possible. These walkways shall have a minimum width of 5 feet with no car overhang or other obstruction. The walkways must also be designed for disabled access according to the Uniform Building Code.This may require the walkways to be widened or modified. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.

(D) Mechanical Equipment and Service Areas

Mechanical equipment and service areas shall be screened with visual barriers from adjacent properties, public roadways, parks, or other public areas. The architectural design of the building shall incorporate design features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.

(E) Building Design

(1.) Exterior Building Design

Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls which can be viewed from public streets shall be designed using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.

Architectural Features

Architectural features include, but are not limited to the following: recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the review authority.

A portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements are in Section 10-10.23 (9) of this Ordinance.

(2.) Building Materials

The predominant building materials shall be materials that are characteristic of Central Oregon such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building.

(3.) Roof Design

Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. Variations within one architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged. Architectural methods shall be used to conceal flat roof

tops. Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged. Mansard style roofs are discouraged.

(4.) Customer Entrance
Each building shall have at least one clearly defined, highly visible customer entrance using a combination of the following architectural features: canopies, porticos, arcades, arches, wing walls, and permanent above grade integral planters.

(5.) Community Amenities
Each building shall contribute to the establishment or enhancement of the community and public spaces by providing at least two community amenities such as a patio/seating area, water feature, art work or sculpture, clock tower, pedestrian plaza with park benches or other features acceptable to the review authority. These shall abut the primary entrance to the building.

(F) Building and Sign Colors
Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors such as black, neon, metallic or florescent colors for the facade and/or roof of the building are prohibited except as approved for building trim. The City of Bend color guide provides samples of approved and prohibited colors. The use of trademark colors will require approval.

(G) Lighting and Flag Poles
The lighting shall be shielded and directed down onto the site and not shine or glare onto adjacent property or streets. Light poles, light fixtures and flag poles shall not exceed 25 feet in height.

(H) Signage
A comprehensive signage plan shall be required pursuant to the City of Bend Sign Code except that pole signs are prohibited. Ground mounted signs shall not exceed 15 feet in height and 8 feet in width. Wider signs may be allowed provided that the total sign area does not exceed 120 square feet. All sign bases shall be constructed of materials compatible with the architecture of building(s) located on the premises. White, ivory and yellow backgrounds of internally illuminated signs shall not exceed 20% of the total sign area including reader boards.

(8) Exceptions. The review authority is authorized to grant exceptions from the setbacks, height, landscaping, parking and lot coverage standards if it can be determined that:

(a) The exception is the minimum needed to achieve the purpose and objectives of this Ordinance;

(b) The exception does not adversely impact an adjacent building or property or create any unsafe pedestrian or vehicular situation; and

(c) The exception is necessary to create a more aesthetic or pleasing vista along the streets within the Design Review Overlay zone.

(9) Compliance with Plans. Construction, site development and landscaping shall comply with the approved plans, drawings, sketches and other documents approved by the review authority.

(10) Modifications. If a change is proposed to the approved plan, a modification to the original decision must be requested of the review authority. Proposed changes shall be submitted in writing to the City of Bend for approval.

(11) Interpretation. Where conditions imposed by the provisions of this Ordinance are less restrictive than comparable conditions imposed by any other provisions which are more restrictive, the more restrictive shall govern.

SECTION 2. Section 10-10.23 (9) of City of Bend Zoning Ordinance No. NS-1178 is amended to read as follows:

(9) Required Minimum Standards.

(a) Minimum Landscaping Standards. All developments subject to site plan approval shall meet the following minimum standards for landscaping:

1. A minimum of 15 percent of the area of a project shall be landscaped for multifamily, commercial, and industrial developments subject to site plan approval **and the following requirements:**

(A) The applicant shall submit a complete landscape plan showing all live plant materials and non-plant materials to be installed on the site in order to meet the landscape requirement. The landscape plan shall also include an analysis of how the site is to be prepared for plant material installation with an emphasis on soil quality and available depth.

(B) Irrigation
All plant materials, except existing native plants not damaged during construction, shall be irrigated by underground sprinkler systems set on a timer in order to obtain proper water duration and ease of maintenance.

(C) Non-Plant Materials
The use of certain non-plant materials as part of the landscape plan is highly encouraged. These materials may include the following: large landscape quality boulders, wood or concrete soil retaining devices, gravels, concrete garden amenities, approved mulch materials, stepping stones and water features. Borders for landscape beds abutting parking areas shall be extruded or poured-in-place concrete, retaining walls, sidewalks and/or other features acceptable to the review authority.

(D) Plant Materials
Minimum Plant Material Sizes And Placement
Note: Annual type plants will not be counted as part of the landscaping requirement unless permanent architectural or other non-movable features are specifically created for these type of plants.

Trees
A variety of tree species is encouraged as a way to provide visual interest and to protect against same species die out or disease. Acceptable tree species shall be those trees which are listed in this Ordinance, readily available from local nurseries, tolerant of Central Oregon climate, disease resistant, and do not create unusual maintenance problems. All deciduous trees shall be a minimum of 2" in diameter. Larger diameter trees are encouraged if soil conditions allow.

There shall be one native Ponderosa species of Pine planted for every four deciduous trees required to be planted on the site. Pine trees may require larger planting beds due to their size at maturity. All coniferous trees, except Ponderosa, shall be a minimum of 6 feet in height. Ponderosa trees shall be a minimum of 3 feet in height. Larger Ponderosa trees are encouraged if readily available.

Shrubs
All shrubs shall be a minimum of 3 gallons in size. Shrubs adjacent to parking areas with car overhang shall be planted at least 3 feet from the parking surface. Shrubs shall not be placed closer to other materials than the plant spread at maturity. At least 40% of the shrubs in the landscape plan shall include evergreens. The use of a variety of shrub types is encouraged.

Ground covers
All ground covers shall be of sufficient size and quantity to provide for maximum coverage in five years based upon the species and growth pattern.

Planting Beds
Planting beds shall be of sufficient width to accommodate the plants at maturity. The planting beds along the perimeter of a building shall incorporate a mix of trees, shrubs and ground covers to buffer the building and reduce the apparent mass of the building as viewed from the street. The plant materials within the planting bed shall not create hiding areas or other security concerns.

2. Street Trees
The **species,** placement, spacing, and pruning of street trees shall be as follows, provided that the site plan committee can adjust the placement standard for special site conditions:

(i) Street trees shall be located a minimum of **five** [three] feet from the face of a curb.

(ii) **Street** [T]trees shall be placed a maximum of thirty feet apart. [Trees shall be evenly spaced, with variations to the spacing permitted for specific site limitations and safety purposes.] **Reduced separation may be required for smaller species of trees. Variety in tree placement using clusters of trees and uneven spacing is encouraged.**

(iii) An approved tree grate **or other surface treatment acceptable to the review authority** shall be used for **street** trees planted in paved or concrete areas.

(iv) As **street** trees grow they shall be pruned to provide a minimum clearance of eight feet above sidewalk and fourteen feet above streets, alleys, or roadway surfaces.

(v) Existing trees may be used as street trees if they are not killed or damaged from any new development. Sidewalks of variable width and elevation may be utilized to save existing street trees.

(vi) Existing street trees removed by development projects shall be replaced by the developer with those from the approved street tree list which is maintained by the City.[Planning Department.]

(vii) Street trees shall be those species suitable for the location in which they are placed. Approved tree species include:

Trees With Low Mature Tree Height (25 feet or less) For Use In Areas Under Power Lines Or In Small Planting Areas:

Amur Maple/Acer ginnala
Canada Red Cherry/Prunus Virginiana 'Shubert'
Eastern Redbud/ Cercis canadensis

Flowering Crabapple/Malus 'variety'
Hawthorn/Crataegus 'variety'
Japanese Lilac Tree/ Syringa reticulata
Serviceberry/Amelanchier

Medium Mature Tree Height (30 to 45 feet):

American Hornbeam/Carpinus caroliniana
Callery Pear/Pyrus calleryana
Hedge Maple/Acer campestre
Mountain Ash/Sorbus acuparia 'variety'

Tall Mature Tree Height (50 feet or larger):

Birch/Betula pendula 'variety'
Green Ash/Fraxinus pennsylvanica
Honey Locust/Gleditsia tricanthos 'variety'
Littleleaf Linden/Tilia cordata
Norway Maple/Acer platanoides 'variety'
Pin Oak/Quercus paluatris
Red Maple/Acer rubrum 'variety'
Red Oak/Quercus rubra

Other Tree Species:

The review authority may approve other tree species as necessary to achieve the purposes of this Ordinance.

3. Areas of commercial and industrial zones used for vehicle maneuvering, parking, loading, or storage shall be landscaped and screened as follows:

   (i) Landscape coverage of the landscape area shall be fifty percent at the time of installation and ninety percent at five years.

   (ii) Parking lot landscaping shall consist of a minimum of seven percent of the total parking area plus a ratio of one tree per [ten] **eight** parking spaces to create a canopy effect.

   (iii) Landscape buffers between parking areas, **parking pods** and **internal** streets shall have a minimum width of **five** [three] feet with no car overhang and **ten** [eight] feet with a car overhang.

   (iv) Landscape buffers between parking abutting a property line shall have a minimum width of **ten** [three] feet.

   (v) Front or exterior yard landscaping may not be substituted for the interior landscaping required for interior parking stalls.

   (vi) There shall be a **landscaped and/or screened buffer area** a minimum distance of five feet between **commercial uses** [parking areas and buildings in parking areas] adjacent to residential dwellings. [and a five foot minimum height and width of continuous evergreen hedge screen (or five foot minimum height of wall or fence) in two years.]

   (vii) There shall be a minimum width of ten feet for landscape buffers between buildings adjacent to streets.

   (viii) Landscape buffers shall consist of evergreen ground cover and shrubs mixed with a variety of flowering and deciduous plant species of trees and shrubs.

(ix) Landscaping in a parking or loading area shall have a width of not less than five feet. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

[4.] [Provision shall be made for the irrigation of planting area.]

4.[5.] Required landscaping shall be continuously maintained.

5.[6.] Vegetation planted in accordance with an approved site plan shall be maintained by the owner, any heir, or assign. Plants or trees that die or are damaged shall be replaced and maintained.

Section 3. Section 24 (5) (h) of City of Bend Zoning Ordinance No. NS-1178 is amended to read as follows:

(h) Maximum parking. The maximum number of parking spaces for a [shopping center] **commercial development with a gross floor area of 30,000 square feet or greater, or a site with more than 6 acres** shall not exceed 150% of the required parking.

Section 4. Section 10-10.4 of City of Bend Zoning Ordinance No. NS-1178 is amended to include the following:

COLOR GUIDE. Means the paint examples maintained by the City which show acceptable colors for use on buildings, structures and signs including examples of prohibited and restricted colors.

COMPREHENSIVE SIGN PLAN. Means a sign plan for one or more properties in a commercial center or business complex showing all locations of proposed signage for business tenants, retail stores, services, offices and other establishments that perform services on the premises.

DESIGN REVIEW OVERLAY ZONE. Means the properties within a specified area as shown on the City of Bend zoning map. The properties within the design review overlay zone must receive design review approval before commercial development of the property can occur.

EXTERIOR MODIFICATION. Means a change in the exterior structure of a building that significantly alters the appearance of any side of a building.

GROUND MOUNTED SIGN. Means a freestanding sign that has a solid base which is directly and continuously connected to the sign face for at least 50% of the sign face width or is borne by supports less than or equal to 24" in height as measured from grade to the sign face.

POD. Means 50 or fewer parking spaces located together in a group.

POLE SIGN. Means a freestanding sign connected to the ground by one or more supports, where any portion of the lower edge of the sign face is separated from the ground by air, a distance greater than 24" in height as measured from grade.

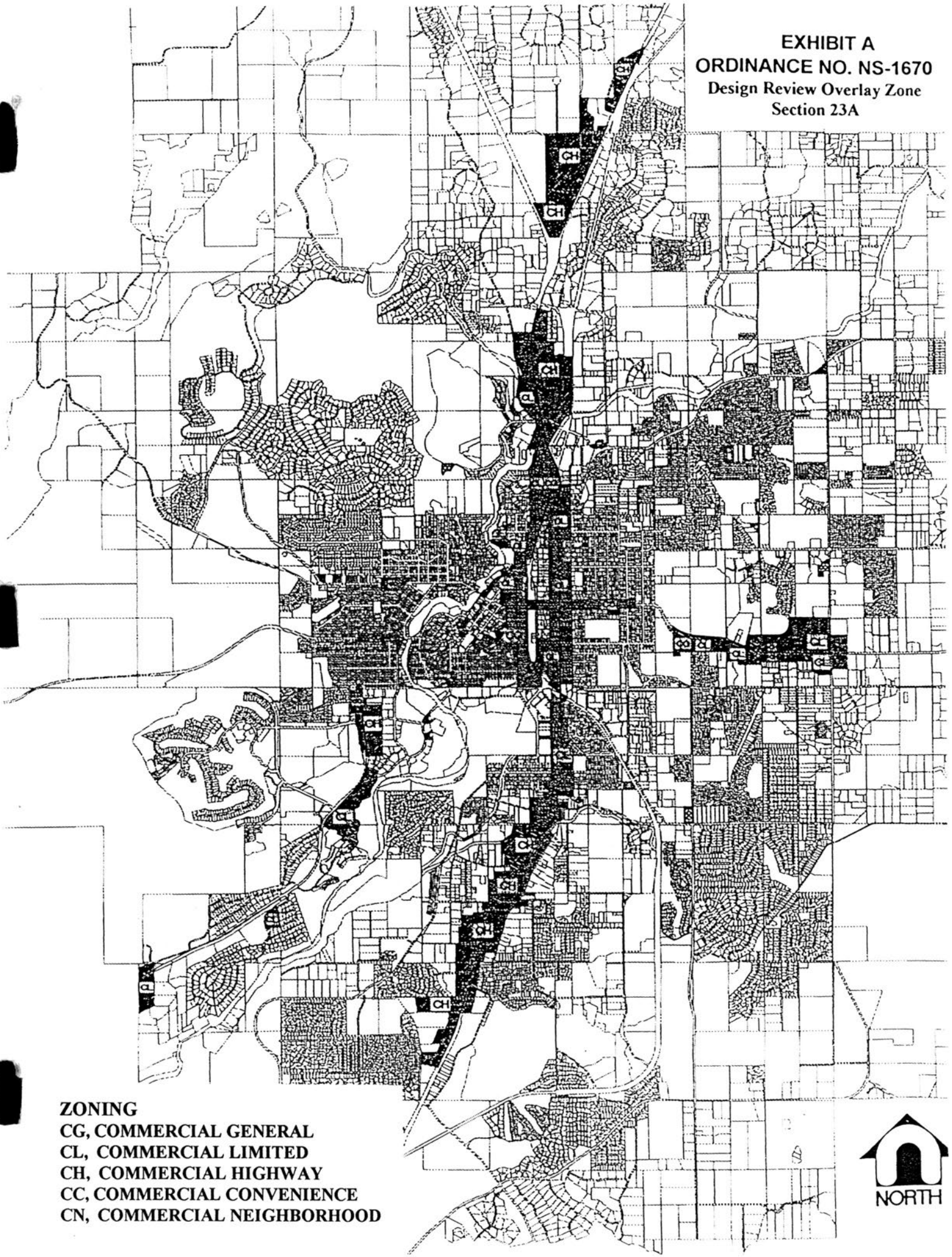
PRIMARY BUILDING ENTRANCE. Means the main entrance closest to the public street by which pedestrians can access a building, structure or activity.

PRINCIPAL BUILDING. Means the largest building or buildings within a commercial center or business complex. Typically, these are the anchor tenants.

PRIMARY FRONTAGE. Means that portion of a parcel of property which abuts a dedicated public street, highway or an approved private street and is where the public or customer entrance fronts upon.

Section 5. Section 24 (6) of City of Bend Zoning Ordinance No. NS-1178 is amended by adding a new subsection (j) to read as follows:

EXHIBIT A
ORDINANCE NO. NS-1670
Design Review Overlay Zone
Section 23A


CH
CH
CH

(6)(j) Parking Pods. Developments that provide more than 75 parking spaces shall:

(A) Develop the parking area into pods of no more than 50 spaces each.

(B) Develop physical breaks between the pods by providing one or more of the following:

(1) Landscaping beds of not less than 5 feet with no car overhang and 10 feet in width with a car overhang;

(2) Siting of building pads, landscaped pedestrian walkways, interior streets or other site features acceptable to the review authority.

Section 6. The City of Bend Zoning Ordinance No. NS-1178 and the Zoning Map of the City of Bend are hereby amended to add the Design Review Overlay Zone as shown on Exhibit "A" incorporated herein and made part of this Ordinance.

Section 7. Section 10-10.5 of City of Bend Zoning Ordinance No. NS-1178 is amended to read as follows:

ESTABLISHMENT OF ZONES AND ZONING MAPS

Classification of Zones. For the purposes of this ordinance, the City is divided into zones designated as follows:

Zones	Map Symbol and Abbreviated Designations
Urban Area Reserve	UAR
Residential - Urban Standard Density	RS
Residential - Urban Medium Density	RM
Residential - Urban High Density	RH
Commercial - Neighborhood	CN
Commercial - Convenience	CC
Commercial - Limited	CL
Commercial - Highway	CH
Commercial - General	CG
Commercial - Central	CBD
Industrial - Park	IP
Industrial - Light	IL
Industrial - General	IG
Flood Plain District	FP
Design Review Overlay	**DR**

Read for the first time the 5th day of February, 1997.
Read for the second time the 19th day of February, 1997.
Placed upon its passage the 19th day of February, 1997.

YES: 7 NO: 0

Authenticated by the Mayor the 19th day of February, 1997.

Mayor

ATTEST:

Recorder of the City of Bend

ORDINANCE NO. NS-1671

AN ORDINANCE AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND BY ENTERING INTO A LOAN CONTRACT WITH THE OREGON ECONOMIC DEVELOPMENT DEPARTMENT.

The City Council of the City of Bend makes the following findings:

That the City of Bend is a "municipality" within the meaning of Oregon Revised Statutes 285.700(1);

That Oregon Revised Statutes 285.700 through 285.750 (the "Act") authorizes any municipality to file an application with the Oregon Economic Development Department ("the Department") to obtain financial assistance from the Special Public Works Fund;

That the City of Bend has filed an application with the Department to obtain financial assistance for an "infrastructure project" within the meaning of the Act;

That the City of Bend is required, as a prerequisite to the receipt of the financial assistance from the Department, to enter into a Financial Assistance Award Contract and a Loan Agreement with the Department in substantially the form attached hereto as Exhibits "A" and "B";

That the project described in Exhibit "A" to the Loan Agreement (the "Project") is an "infrastructure project" within the meaning of the Act which is needed by and is in the public interest of the City of Bend; and,

That notice relating to the City of Bend's consideration of the adoption of this Ordinance was published at least once in a newspaper of general circulation within the City of Bend. Such notice was published at least 14 days in advance of the adoption of this Ordinance.

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

1. Loan Authorized. The City Council authorizes Larry Patterson, City Manager, to execute the Financial Assistance Award Contract, Loan Agreement, the Promissory Note attached as Exhibit "F" to the Loan Agreement (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the Department on the condition that the principal amount of the loan from the Department to the City of Bend is not in excess of $600,000 and the interest rate on such loan is not in excess of 6 percent. The proceeds of the loan from the Department shall be applied solely to the "Costs of the Project" as such term is defined in the Loan Agreement.

2. Security. Amounts payable by the City of Bend shall be payable from the sources described in Section 3.09 of the Loan Agreement and Oregon Revised Statutes 285.723(2) which include:

a. any sources of funds that are legally available to the City of Bend,

b. the revenues, if any, of the Project, including special assessment revenues, if any, and

c. the City of Bend's general fund including the general revenues of the City of Bend, other funds which may be available for such purpose and a pledge of the City of Bend's taxing power within the restrictions of Article XI, Section 11 and 11b of the Constitution of the State of Oregon. The obligation of the City of Bend to make payments pursuant to the Loan Agreement is a full faith and credit obligation of the City of Bend that is not subject to annual appropriation.

3. Additional Documents. The City Manager is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the Department for the Project pursuant to the Financial Assistance Award Contract and the Loan Agreement.

RECIPIENT COPY

STATE OF OREGON
SPECIAL PUBLIC WORKS FUND
FINANCIAL ASSISTANCE AWARD CONTRACT

This Contract is made and entered into by and between the State of Oregon, acting by and through its Economic Development Department ("State") and the City of Bend ("Borrower"). The reference number of this Contract is B97006.

RECITALS

WHEREAS, the award of financial assistance which is the subject of this Contract is authorized by ORS 285.700 through 285.753; and

WHEREAS, the State has reviewed the Borrower's application and determined the Project, as hereinafter defined, is feasible and merits funding; and

WHEREAS, the State has found that economic development in the Project Area, as hereinafter defined, is prevented or substantially restricted by a lack of infrastructure improvements and that a high probability for industrial and/or commercial development exists in the Project Area; and

WHEREAS, the Borrower represents that $2,048,000 is a reasonable estimate of the Costs of the Project, as hereinafter defined; and

WHEREAS, the Borrower has committed to provide $948,000 in public and/or private resources as matching funds for the Project; and

WHEREAS, the State is willing to provide a Loan of $600,000 and a Grant of $500,000 to the Borrower on the terms and conditions of this Contract.

THEREFORE, the parties agree as follows:

SECTION 1

MAY 14 1997

CERTAIN DEFINITIONS

As used in this Contract, the following terms shall have the following meanings:

"Act" shall mean ORS 285.700 through 285.753, as the same may from time to time be amended and supplemented.

"Award" shall mean written notification from the State offering a Loan and/or Grant to the Borrower.

"Contract" means a contract between the State and a Borrower including the Loan Agreement and Note attached thereto, as it may be supplemented, modified or amended from time to time in accordance with the terms thereof and of the Bond Indenture.

"Costs of the Project" shall mean all costs of acquiring and constructing the Project, including any financing costs properly allocable to the Project as set out in Exhibit B to the Loan Agreement, the Approved Project Budget.

"Default" shall mean an Event of Default or an event which with notice or lapse of time or both would become an Event of Default as set out in Section 7 hereof.

"Grant" shall have the meaning ascribed thereto in Section 2(B) hereof.

"Loan" shall have the meaning ascribed thereto in the Loan Agreement.

"Loan Agreement" shall mean the Loan Agreement, Exhibit 1 hereto, entered into between the State and the Borrower on the date hereof.

"Project" shall have the meaning ascribed thereto in the Loan Agreement and described in Exhibit A of the Loan Agreement.

"Project Area" shall mean all properties that will be directly benefitted and served by construction of the Project.

"Project Close Out Date" shall mean the date on which the State sends the Borrower written confirmation that the Project has been properly constructed and that the job creation required by Section 5(C) hereof has occurred.

"Project Completion Date" shall mean the date on which the Borrower has completed construction of the Project, as set out in Exhibit C(4) of the Loan Agreement.

"SPWF" shall mean the Special Public Works Fund created by ORS 285.733(1).

SECTION 2

FINANCIAL AWARD

A. Amount of Loan

Subject to the terms and conditions of this Contract and the Loan Agreement as amended, attached hereto as Exhibit 1 and incorporated herein by reference, the State agrees to make a loan to Borrower in the principal amount of $600,000 (the "Loan").

B. Amount of Grant

Subject to the terms and conditions of this Contract, the State agrees to provide funds to the Borrower in the amount of $500,000 (the "Grant").

C. Availability of Funds

The amounts set out in Sections 2(A) and (B) above are subject to the availability of moneys in the SPWF.

D. Change in the Act

The State shall not be obligated to provide the Loan and/or Grant if, on or prior to the time the Borrower satisfies all conditions for disbursement of the Loan and/or Grant, there has been a change in the Act so that the Project is no longer eligible for the financial assistance authorized by this Contract.

E. Drawdowns

The State shall disburse the Loan and/or Grant after the Borrower submits drawdown requests on a State-approved cash request form. The Borrower may not draw down any of the Grant until the entire Loan, and any interest earned thereon, has been expended. The Grant may only be drawn down to pay for the Costs of the Project that have been incurred.

SECTION 3

USE OF SPECIAL PUBLIC WORKS FUND AWARD

A. Eligible Activities

The use of the Grant and/or Loan are expressly limited to the activities set out in the Project description, Exhibit A of the Loan Agreement. The use of these funds is also expressly subject to the Special Conditions set out in Exhibit 2 hereto, and by this reference incorporated herein.

B. Ineligible Activities

No part of the Loan or Grant shall be used for: administrative purposes, preliminary planning, legal, fiscal or economic investigations, reports or studies to determine the economic and engineering feasibility of the Project, the purchase of equipment not directly appurtenant to the Project, or construction or repair of facilities owned and operated by private parties, the purchase of off-site property for uses not directly related to the Project or costs incurred prior to the date of the Award, except as provided for in ORS 285.740(4).

C. Unexpended Funds

Any portion of the Grant remaining after this Contract is terminated or 90 days after the Project Completion Date shall be returned to the SPWF within 90 days of the Project Completion Date or termination.

D. SPWF Participation Rate

The Borrower shall finance no more than fifty-four percent (54%) of the Costs of the Project, as set out in Exhibit B to the Loan Agreement, from the Grant and Loan ("Participation Rate"). If the Costs of the Project are less than the amount set out in the Recitals, Borrower shall use less of the Grant and Loan so as to maintain the Participation Rate.

SECTION 4

REPRESENTATIONS OF THE STATE

The State certifies that at the time this Contract is signed, sufficient funds are available and authorized for this Contract.

SECTION 5

REPRESENTATIONS OF THE BORROWER

The Borrower represents and warrants to the State that:

A. Matching Funds

Matching funds of $948,000 are available and committed to the Project. Before disbursement of the Loan or Grant the Borrower shall demonstrate, to the satisfaction of the State, that it has obtained any matching funds that are needed to pay for the Costs of the Project.

B. Binding Obligations

This Contract has been duly executed and delivered by the Borrower and will constitute the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms.

C. Job Creation

The Project will create and/or retain 50 full-time jobs. The following firms have pledged to (create/retain) jobs in connection with the Project.

Firm	Number of Jobs to be Created/Retained	Number of Family-Wage Jobs
Pacific Aviation Composites, USA	100	100
The minimum number of jobs that must be created within two (2) years from the date of this Contract to meet program requirements are:	50	15

D. Drawings

Borrower shall obtain as-built drawings for all facilities constructed with the Loan and Grant. Borrower shall obtain certification of completion per as-built drawings from the project engineer.

BECKY

SECTION 6

COVENANTS OF BORROWER

Until the Project is completed and the Loan repaid Borrower agrees that, unless the State shall otherwise consent in writing:

A. Compliance with Laws

The Borrower will comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority that relate to the construction of the Project and the operation of any utility system of which the Project is a component. In particular, but without limitation, the Borrower shall comply with:

1. State procurement regulations found in ORS Chapter 279.
2. State labor standards and wage rates found in ORS Chapter 279.
3. State municipal finance and audit regulations found in ORS Chapter 297.
4. State regulations regarding industrial accident protection found in ORS Chapter 656.
5. State conflict of interest requirements for public contracts.
6. State environmental laws enacted by agencies listed in Exhibit 3 hereto.
7. Oregon Administrative Rules, chapter 123, Division 42, as amended from time to time at the discretion of the State.
8. State municipal bonding requirements found in ORS Chapters 280, 284, 286, 287 and 288.

B. Operation and Maintenance of the Project

The Borrower will have a program, documented to the satisfaction of the State, for the on-going maintenance, operation and replacement, at its sole expense, of the public works service system, if any, of which the Project is a part by the Project Completion Date. This program should include a plan for generating revenues sufficient to assure the operation, maintenance and replacement of the facility during the service life of the Project.

C. Signs and Notifications

The Borrower shall display a sign, provided by the State, near the Project construction site stating that the Project is being funded by Lottery proceeds for the purpose of creating jobs. The Borrower shall include the following statement, prominently placed, on all plans, reports, bid documents and advertisements relating to the Project:

"This Project was funded in part with a financial award from the Special Public Works Fund, funded by the Oregon State Lottery and administered by the State of Oregon, Economic Development Department."

D. Economic Benefit Reports

The Borrower shall submit reports on the economic development benefits of the Project for the period from the date hereof until two (2) years after the Project Close Out Date at such intervals and in such form as the State shall specify. Reports shall document temporary construction jobs associated with the Project and any new direct permanent or retained jobs resulting from the Project. The reports shall document the general economic benefits of the Project to the community and provide other information necessary to evaluate the success of the Project. The preparation and filing of these reports shall be at the Borrower's expense.

E. Insurance

Except as may be provided in the Special Conditions of Award, in the event the Project, or any portion thereof, is destroyed and the project is insured, any insurance proceeds shall be paid to the State and shall be applied to the principal of and interest on the Loan unless the State agrees in writing that the insurance proceeds shall be used to rebuild the Project.

F. Creation of Accounts

In case of any loan that is not funded in whole or in part with the proceeds of State Bonds, the borrower shall establish and maintain the following Construction Account: The Loan proceeds (as and when the Loan proceeds are disbursed by the State to the Borrower), Grant and matching funds shall be deposited in this account. Earnings on this account shall be credited to this account. Moneys in this account shall be used to pay the Costs of the Project.

G. Sales, Leases and Encumbrances

Borrower may not sell, exchange, or otherwise dispose of any property constituting a part of the Project unless it is worn out, obsolete or, in the reasonable opinion of the Borrower, no longer useful in the operation of the Project. Except as may be provided in the Special Conditions of Award, proceeds of such sale, exchange or other disposition not used to replace the property in an amount equal to the Participation Rate shall be deposited in the Loan Account.

H. Disbursement of Grant Drawdowns

The amount of time between receipt of Grant funds by the Borrower and disbursement shall be kept as brief as is administratively possible.

I. Condemnation Proceeds

Except as may be provided in the Special Conditions of Award, in the event the Project, or any portion thereof is condemned, any condemnation proceeds shall be deposited in the Loan Account and shall be used to repay the outstanding principal and interest on the Loan.

J. First Source Hiring Agreement

Prior to disbursement of the Loan or Grant, Pacific Aviation Composites, USA, shall enter into a First Source Hiring Agreement with the Central Oregon Intergovernmental Council, and a copy of the fully executed First Source Hiring Agreement must be forwarded to the State.

SECTION 7

DEFAULT

If any of the following Events of Default occurs and is continuing, namely:

A. The Borrower fails to proceed expeditiously with, or to complete, the Project or any segment or phase of the Project in accordance with the plans and schedules approved by the State; or

B. Any representation with respect to current or historical information made to the State herein or in any other pertinent documents and reports relied upon by the State in gauging the progress on the Project and performance of duties by the Borrower, are untrue in any material respect; or

C. The Borrower fails to perform or observe any of its covenants or agreements contained herein; or

D. If, within six (6) months from the date of this Contract, the Borrower has not entered into binding legal agreements with all private parties necessary to complete the Project; or

E. The Borrower is in default under the Loan Agreement.

Thereupon, and in each such case, the State, by written notice of default to the Borrower, may terminate the whole or any part of this Contract. Notice of default shall specify, with reasonable particularity, the deficiencies in the Borrower's performance and shall provide the Borrower thirty (30) days, or such longer period as the State may authorize in its sole discretion, to correct such deficiencies.

SECTION 8

REMEDIES

In the event the Borrower is found in Default under this Contract, the State may pursue any or all of the remedies set forth in the Loan Agreement and any other remedies available at law or in equity. Such remedies may include, but are not limited to, termination of the Contract or Loan Agreement, stop payment on or return of the Loan and Grant, payment of interest earned on the Loan and Grant, declaration of ineligibility for the receipt of future SPWF awards and withholding of other State funds due the Borrower.

SECTION 9

MISCELLANEOUS

A. No Implied Waiver, Cumulative Remedies

No failure on the part of the State to exercise, and no delay in exercising, any right, power, or privilege under this Contract shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

B. Notices

All notices, requests, demands, and other communications to or upon the parties hereto shall be in writing and shall be deemed to have been duly given or made when deposited in the mails, postage prepaid, addressed to the party to which such notice, request, demand, or other communication is requested or permitted to be given or made at the addresses set forth below or at such other address of which such party shall have notified in writing the other party hereto.

If to the State:
Economic Development Department
775 Summer Street NE
Salem, Oregon 97310
Attn.: Manager
Regional Development Division

If to the Borrower:
City Manager
City of Bend
PO Box 431
Bend, OR 97709

C. Amendments

The terms of this Contract, including timeframes for Project completion, will not be waived, altered, modified, supplemented, or amended in any manner except by written instrument signed by the parties.

D. Attorney Fees

The prevailing party in any dispute arising from this Contract shall be entitled to recover from the other its reasonable attorney's fees at trial and on appeal.

E. Indemnity

To the extent permitted by Article XI, Section 10 of the Oregon Constitution, Borrower's charter, relevant Oregon statutes and the Oregon Tort Claims Act, Borrower shall indemnify the State and its officers, employees and agents against any liability for damage to life or property arising from the Borrower's actions under this Contract or the Loan Agreement or the actions of Borrower's subcontractors, agents or employees.

F. Severability

If any term or condition of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or condition held to be invalid.

G. Merger

This Contract constitutes the entire agreement between the parties. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Borrower, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed as of the dates set forth below their signatures.

STATE OF OREGON, acting by and through its Economic Development Department

By: Yvonne L Addington
Yvonne L. Addington, Manager
Regional Development Division

Date: 5/27/97

City of Bend
(Borrower)

By: _____
(Signature)

Title: _____

Date: 5/8/97

Loan Agreement

BETWEEN

STATE OF OREGON

acting by and through its

ECONOMIC DEVELOPMENT DEPARTMENT

AND

CITY OF BEND

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THIS LOAN AGREEMENT, made and entered into as of the Loan Closing Date (as such term is defined herein), by and between the State of Oregon acting by and through its Economic Development Department (the "State"), and the Borrower described in Exhibit C hereto:

WITNESSETH THAT:

WHEREAS, the State, in accordance with the Act, the Contract and the Bond Indenture (as such terms are hereinafter defined), will provide funds in the Special Public Works Fund created by ORS 285.733(1) (the "SPWF") or will issue its bonds for the purpose of making loans to municipalities, including the Borrower, to finance a portion of the cost of infrastructure projects; and

WHEREAS the Borrower has made timely application to the State for a loan to finance all or a portion of the cost of an infrastructure project and the State has approved the Borrower's application for a loan in an amount not to exceed the amount of the loan commitment set forth in Exhibit C hereto to finance a portion of the cost of such project; and

WHEREAS, the Borrower has agreed under this Loan Agreement to make payments sufficient to pay when due the principal of, premium, if any, and interest on the loan from the State pursuant to the repayment schedule set forth on Exhibit D hereto; and

WHEREAS, the Borrower's obligations under this Loan Agreement shall be assigned to First Interstate Bank of Oregon, N.A., as Trustee under the Bond Indenture, to provide for the payment of and security for bonds issued by the State of Oregon;

NOW THEREFORE, for and in consideration of the award of the loan by the State, the Borrower agrees to perform its obligation under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as a part hereof, as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions.

The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the meanings assigned to them below.

"Act" means Sections 285.700 through 285.753 of the Oregon Revised Statutes, as the same may from time to time be amended and supplemented.

"Authorized Officer" means, in the case of the Borrower, the person whose name is set forth in Exhibit C hereto or such other person or persons authorized pursuant to a resolution or ordinance of the governing body of the Borrower to act as an Authorized Officer of the Borrower to perform any act or execute any document relating to the Loan, or this Loan Agreement whose name is furnished in writing to the State.

"Bond Counsel" means a law firm having knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds.

"Bond Indenture" means the Indenture of Trust dated as of July 1, 1993, between the State and the Trustee pursuant to which the State bonds are issued, between the Issuer, the State and the Trustee and all amendments and supplements thereto adopted in accordance with the provisions thereof.

"Borrower" means the Municipality that is a party to this Loan Agreement and is described on Exhibit C hereto, and its successors and assigns.

"Business Day" means any day other than (i) a Saturday, Sunday or legal holiday or a day on which banking institutions, in Salem, Oregon or in the city in which the principal office of the Trustee is located, are closed, or (ii) a day on which the New York Stock Exchange is closed.

"Code" means the "Internal Revenue Code of 1986," as the same may be amended or supplemented from time to time, including any regulations promulgated thereunder and any administrative or judicial interpretations thereof.

"Completion Date" means the earlier of (a) the date on which all of the proceeds of the Loan, including any investment earnings derived from the investment of such proceeds have been spent, or (b) the second anniversary of the Loan Closing Date.

"Contract" means a contract, between the State and a Municipality including the Exhibits attached thereto, as it may be supplemented, modified or amended from time to time in accordance with the terms thereof and of the Bond Indenture.

"Costs of the Project" means those costs that are (a) reasonable, necessary and directly related to an "infrastructure project" within the meaning of ORS 285.700(2), including any financing costs properly allocable to the Project (b) preliminary costs such as engineering and architectural reports, studies, surveys, soil tests, designs, plans, working drawings and specifications necessary for the construction of the infrastructure project and (c) permitted by generally accepted accounting principles to be costs of such Project. The term "Costs of the Project" does not include costs (i) for preliminary planning or legal, fiscal and economic investigations, reports and studies to determine the economic and engineering feasibility of the Project, (ii) relating to any infrastructure projects that primarily focus on relocating business or economic activity from one part of the State of Oregon to another part of the State of Oregon or (iii) in excess of 100 percent of the total cost of any infrastructure project.

"Counsel" means an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of, the State, the Issuer, the Trustee or the Borrower) duly admitted to practice law before the highest court of any state.

"Event of Default" means any occurrence or event specified in Section 5.01 hereof.

"Issuer" means the State of Oregon acting by and through the State Treasurer of the State of Oregon.

"Loan" means the loan made by the State to the Borrower to finance or refinance a portion of the Costs of the Project pursuant to this Loan Agreement. The Loan may be funded by the State from the proceeds of the State Bonds or from other amounts held in the SPWF. For all purposes of this Loan Agreement, the amount of the Loan at any time shall be the principal amount of the loan set forth in Exhibit C attached hereto and made part of this Loan Agreement, less any amount of such principal amount as has been repaid by the Borrower under this Loan Agreement.

"Loan Agreement" means this Loan Agreement, including the Exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"Loan Closing Date" means the Loan Closing Date described on Exhibit C attached hereto.

"Loan Prepayment" means amounts paid by the Borrower that are in excess of the amounts required to be paid as a Loan Repayment.

"Loan Repayment" means the scheduled payments of principal and interest required to be made by the Borrower pursuant to the provisions of Exhibit D attached hereto and made a part hereof.

"Loan Term" means the term of this Loan Agreement provided in Section 3.01 of this Loan Agreement and Exhibit D attached hereto and made a part hereof.

"Municipality" means any entity described in ORS 285.700(1) that has entered into a Contract with the State pursuant to which such entity will borrow money from the Special Public Works Fund.

"Note" means the promissory note of the Borrower attached hereto as Exhibit F.

"Project" means the "infrastructure project" (within the meaning of ORS 285.700(2)) of the Borrower described in Exhibit A attached hereto and made a part hereof, all or a portion of the Costs of the Project of which are financed or refinanced by the State through the making of the Loan under this Loan Agreement.

"Special Public Works Fund" or "SPWF" means the fund created by ORS 285.733.

"State" means the State of Oregon acting by and through its Economic Development Department.

"State Bonds" means the series of bonds, if any, authorized by the Bond Indenture, together with any refunding bonds authenticated and delivered pursuant to the Bond Indenture, in each case to finance or refinance the Project through the initial funding or refinancing of all or a portion of the Loan.

"System" means the utility system or systems, if any, of the Borrower which includes the Project or components of the Project, as such system or systems may be modified or expanded from time to time. References in this Loan Agreement to a Borrower's "System" shall be ignored to the extent that the Project is not a component of a utility system or systems.

"Trustee" means the First Interstate Bank of Oregon, N.A., and its successor or successors and any other corporation which may at any time be substituted in its place as Trustee pursuant to the Bond Indenture.

"Underwriter" means the broker, dealer or municipal securities dealer acting as an underwriter in the primary offering of the State Bonds.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

DURING ANY PERIOD OF TIME IN WHICH THIS LOAN AGREEMENT HAS NOT BEEN ASSIGNED TO THE TRUSTEE, ALL REFERENCES IN THIS LOAN AGREEMENT TO "TRUSTEE," "BOND INDENTURE," "STATE BONDS," "UNDERWRITER" AND "ISSUER" AND THE PROVISIONS OF THIS LOAN AGREEMENT PERTAINING THERETO SHALL BE VOID AND OF NO FORCE OR EFFECT EXCEPT FOR PURPOSES OF DETERMINING THE APPLICABLE REQUIREMENTS OF THE BOND INDENTURE OR DETERMINING ANY REQUIREMENTS OF THIS LOAN AGREEMENT THAT REFER TO PROVISIONS OF THE BOND INDENTURE.

ARTICLE II

REPRESENTATIONS AND COVENANTS OF BORROWER

SECTION 2.01. Representations of Borrower.

The Borrower represents for the benefit of the State, and the holders of the State Bonds as follows:

(a) Organization and Authority.

(i) The Borrower is a Municipality as defined in the Act.

(ii) The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the Project and its System, other than licenses and permits relating to the Project which the Borrower expects to receive in the ordinary course of business, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Loan Agreement.

(iii) The Project is a project which the Borrower may undertake pursuant to Oregon law and for which the Borrower is authorized by law to borrow money.

(iv) The proceedings of the Borrower's governing members and voters, if necessary, approving this Loan Agreement and authorizing their execution, issuance and delivery of this Loan Agreement on behalf of the Borrower, and authorizing the Borrower to undertake and complete the Project have been duly and lawfully adopted in accordance with the laws of Oregon and such proceedings were duly approved and published, if necessary, in accordance with applicable Oregon law, at a meeting or meetings which were duly called pursuant to necessary public notice and held in accordance with applicable Oregon law, and at which quorums were present and acting throughout.

(v) This Loan Agreement has been duly authorized, executed and delivered by an Authorized Officer of the Borrower; and, assuming that the State has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered, this Loan Agreement; this Loan Agreement constitutes the legal, valid and binding obligation of the Borrower in accordance with its terms, and the information contained in Exhibits A and B attached hereto and made a part hereof and in Sections 2, 3, 4 and 9 of Exhibit C attached hereto and made a part hereof is true and accurate in all respects.

(vi) The Contract and the Loan Agreement have been authorized by an ordinance of the Borrower which was adopted with not less than 14 days prior notice. Such notice was published at least once in a newspaper of general circulation within the Borrower's jurisdiction.

(b) Full Disclosure.

There is no fact that the Borrower has not disclosed to the State in writing on the Borrower's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the Borrower, the Project or the Borrower's System, or the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement. Neither the Borrower's application for the Loan or the Borrower's representations in this Loan Agreement contain any untrue statement of a material fact or omits any statement or information which is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(c) Pending Litigation.

There are no proceedings pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Borrower or its System, or the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement, that have not been disclosed in writing to the State in the Borrower's application for the Loan or otherwise to the State.

(d) Compliance with Existing Laws and Agreements.

The authorization, execution and delivery of this Loan Agreement by the Borrower, the observation and performance by the Borrower of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions provided for in this Loan Agreement, the compliance by the Borrower with the provisions of this Loan Agreement and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Borrower pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than any lien and charge of this Loan Agreement and any ordinance or resolution, or indenture, which authorized outstanding debt obligations of the Borrower which are at parity with, or superior to, the Loan as to lien on, and source and security for, payment thereon from the source of payment of the Loan) to which the Borrower is a party or by which the Borrower, its System or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Borrower was established or any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the Borrower, its System or its properties or operations is subject.

(e) No Defaults.

No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it, its System or its property may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or otherwise) of the Borrower or its System or the ability of the Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(f) Governmental Consent.

The Borrower has obtained or will obtain all permits and approvals required to date by any governmental body or officer for the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or for the undertaking or completion of the Project and the financing or refinancing thereof; and the Borrower has complied or will comply with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer that has not been obtained is required on the part of the Borrower as a condition to the authorization, execution and delivery of this Loan Agreement.

(g) Compliance with Law.

The Borrower

(i) is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Borrower or its System; and

(ii) has obtained or will obtain all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Borrower or its System.

(h) Use of Proceeds.

The Borrower will apply the proceeds of the Loan (a) to finance all or a portion of the Costs of the Project; and (b) where applicable, to reimburse the Borrower for a portion of the Costs of the Project, which portion was paid or incurred in anticipation of reimbursement by the State. None of the proceeds of the Loan shall be used for administrative purposes by the Borrower.

(i) The Project.

(i) The Project is feasible and there will be adequate funds available to repay the Loan.

(ii) The Project is situated in an area in which economic development is prevented or substantially restricted by a lack of adequate sewage treatment works, solid waste disposal sites, water supply works, roads, public transportation or other facilities that comprise the physical foundation for industrial and commercial activity.

(iii) The Project is situated in a city or county with a comprehensive land use plan that allows industrial and commercial development of a type and scale that is sufficient to produce revenues to repay the costs of the Project.

(iv) A high probability exists for industrial or commercial development, or both, of the properties served by the Project.

(v) To the extent shown in the Special Conditions of Award, the Borrower has provided as part of the security for repayment of the Loan, provisions for payments from any owners of property specially benefitted by the Project which are sufficient when considered with other security to assure repayment of the Loan and the portion of any State Bonds that fund or refinance the Loan.

(vi) The Borrower has been provided with a copy of the rules adopted by the State under ORS 285.707 and the Project is in compliance with such rules.

(vii) The principal amount of the Loan shown on Exhibit C(5) attached hereto is not in excess of the reasonable Costs of the Project.

SECTION 2.02. Particular Covenants of the Borrower.

(a) Source of Repayment.

The Loan shall be paid from the sources of repayment described in Section 3.09 of this Loan Agreement. Such sources shall be applied to the punctual payment of the principal of and the interest on the Loan, and all other amounts due under this Loan Agreement according to their respective terms.

(b) Performance Under Loan Agreement.

The Borrower covenants and agrees (i) to maintain the Project and its System in good repair and operating condition; (ii) to cooperate with the State in the observance and performance of the respective duties, covenants, obligations and agreements of the Borrower and the State under this Loan Agreement; and (iii) to comply with the covenants described in the Exhibits to this Loan Agreement.

(c) Completion of Project and Provision of Moneys Therefor.

The Borrower covenants and agrees to provide the State with copies of all plans and specifications relating to the Project for review and approval by the State. The Borrower further covenants and agrees (i) to exercise its best efforts in accordance with prudent practice to complete the Project and to so accomplish such completion on or before the estimated Project completion date set forth in Exhibit C(4) hereto and made a part hereof; (ii) to proceed expeditiously with, and complete, the Project in accordance with plans reviewed and approved by the State and (iii) to provide from its own fiscal resources all moneys, in excess of the total amount of proceeds it receives pursuant to the Contract and the Loan, required to complete the Project. For purposes of (ii) of the preceding sentence, if the State does not review the plans and specifications or suggests modifications thereto within 30 days of the receipt of the plans and specifications, they shall be deemed approved.

(d) Disposition of Project or System.

The Borrower shall not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or its System or any other system which provides revenues to provide for the payment of this Loan Agreement except on ninety (90) days' prior written notice to the State and, in any event, shall not so sell, lease, abandon or otherwise dispose of the same unless the State consents to such sale, lease, abandonment or other disposition and either:

(i) The Borrower assigns this Loan Agreement and the conditions of Section 4.02 hereof are satisfied,

(ii) The Borrower demonstrates to the satisfaction of the Trustee that such sale, lease, abandonment or other disposition will not adversely affect the rating of the State Bonds,

(iii) A rating of the Loan is obtained which (a) addresses such sale, lease, abandonment or other disposition, (b) is no lower than the rating of the State Bonds and (c) shall be in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) by Moody's Investors Service or Fitch Investors Service, Inc., or

(iv) The State certifies to the Borrower that this Loan Agreement has not been assigned to the Trustee and provides a copy of such certification to the Trustee.

The State shall not consent to any such sale, lease, abandonment or other disposition unless the State shall have received an opinion of the State's counsel to the effect that such sale, lease, abandonment or other disposition will not adversely affect the exclusion of interest on the Loan and on the State Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code.

(e) Exclusion of Interest from Federal Gross Income and Compliance with Code.

(i) The Borrower covenants and agrees that it shall not take any action or omit to take any action which action or omission would result in the loss of the exclusion of the interest on the loan from gross income for purposes of federal income taxation as that status is governed by Section 103(a) of the Code.

(ii) The Borrower shall not take any action or omit to take any action, which action or omission would cause the Loan to be "private activity bonds" within the meaning of Section 141(a) of the Code. Accordingly, unless the Borrower receives the prior written approval of the State, the Borrower shall neither (A) permit in excess of 10 percent of either (i) the proceeds (such term as used in this Loan Agreement shall have the same meaning as when used in Section 141 of the Code) of the Loan or (ii) the Project financed (or refinanced) with the proceeds of the Loan, to be used (directly or indirectly) in any manner that would constitute "private business use" within the meaning of Section 141(b)(6) of the Code, nor (B) use (directly or indirectly) any of the proceeds of the Loan, to make or finance loans to persons other than governmental units (as such term is used in Section 141(c) of the Code); provided further, that at least one half of the private business use permitted by clause (A) shall be neither (i) disproportionate related business use, nor (ii) private business use not related to the government use of such proceeds of the Loan.

(iii) The Borrower shall not directly or indirectly use or permit the use of any of the "gross proceeds" (within the meaning of Section 148 of the Code) of the Loan or any other funds or take any action or omit to take any action, which use or action or omission would cause the Loan to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

(iv) The Borrower shall not use (directly or indirectly) the proceeds of the Loan in any manner that would constitute an "advance refunding" within the meaning of Section 149(d)(5) of the Code and shall not refund the Loan or any part of the Loan without prior written approval of the State.

(v) The Borrower will not cause the Loan to be treated as a "federally guaranteed" obligation for purposes of Section 149(b) of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to "federally guaranteed" obligations described in Section 149(b) of the Code. For purposes of this paragraph, the Loan shall be treated as "federally guaranteed" if: (a) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (b) five percent or more of the proceeds of the Loan will be (1) used in making loans the payment of principal or interest with respect to which is guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (2) invested directly or indirectly in federally insured deposits or accounts, and (c) none of the exceptions described in Section 149(b)(3) of the Code apply.

(vi) The Borrower agrees to assist the State, the Issuer and the Trustee to ensure that all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code are rebated to the United States of America. The Borrower agrees to provide all amounts necessary to satisfy the requirements of Section 148(f) applicable to the Loan and, to pay to the State, the Issuer, or the Trustee such amounts as may be directed by the State, the Issuer, or the Trustee and at such times as the Borrower may be so directed to satisfy the requirements of Section 148(f) of the Code applicable to the portion of the proceeds of any State Bonds, including any proceeds or other amounts held in a reserve fund, applied to fund or refinance the Loan. The Borrower further agrees to reimburse the State, the Issuer or the Trustee for the portion of any expenses incurred by them that relate to the Loan and are necessary to satisfy the requirements of Section 148(f) of the Code.

(vii) In furtherance of the foregoing, the Borrower covenants that it will comply with the provisions of any tax certificate as to compliance with the provisions of Sections 103 and 141 through 150 of the Code entered into by the Borrower, the State or the Issuer with respect to the Loan and will furnish to the State, the Issuer, or the Trustee in writing, upon reasonable request, information regarding investments and use of proceeds of the Loan or the State Bonds and of any facilities financed or refinanced therewith.

(viii) The Borrower shall not enter into any management agreement for the operation of the Project that would cause the Loan to be or become a "private activity bond" within the meaning of Section 141(a) of the Code.

(ix) Notwithstanding anything to the contrary, so long as is necessary to maintain the exclusion from gross income for purposes of federal income taxation of interest on the Loan, the covenants contained in this subsection (e) shall survive the payment of the Loan and the State Bonds, and the interest thereon, including any payment pursuant to Section 3.07 of this Loan Agreement. The Borrower acknowledges that the Loan may be funded in whole or in part with the proceeds of the State Bonds and that failure to comply with the requirements of this subsection (e) could adversely affect any exclusion of the interest on the State Bonds from gross income for federal income tax purposes.

(x) Neither the Borrower nor any related party to the Borrower shall purchase State Bonds in an amount related to the amount of the Loan.

(f) Operation and Maintenance of System.

The Borrower covenants and agrees that it shall, in accordance with prudent utility practice, (i) at all times operate the properties of its System and any business in connection therewith in an efficient manner, (ii) maintain its System in good repair, working order and operating condition, (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to its System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted and (iv) not provide free service to any customer served by the System except in an emergency; provided, however, this covenant shall not be construed as requiring the Borrower to expend any funds which are derived from sources other than the operation of its System or other receipts of such System which are not sources of repayment under subsection (a) of this Section 2.02, and provided further that nothing herein shall be construed as preventing the Borrower from doing so.

(g) Records; Accounts.

The Borrower shall keep accurate records and accounts for the revenues and funds that are the source of repayment of the Loan (the "Repayment Revenues"), separate and distinct from its other records and accounts (the "General Records"). Such Repayment Revenues shall be maintained in accordance with generally accepted government accounting standards and shall be audited annually by an independent accountant, which audit may be part of the annual audit of the General Records of the Borrower. Such Repayment Revenues and General Records shall be made available for inspection by the State or the Trustee at any reasonable time, and a copy of such annual audit(s) therefor, including all written comments and recommendations of such accountant, shall be furnished to the State within 210 days of the close of the fiscal year being so audited.

(h) Inspections; Information.

The Borrower shall permit the State, and the Trustee and any party designated by any of such parties to examine, visit and inspect, at any and all reasonable time, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the State and the Trustee may reasonably require in connection therewith. In addition, the Borrower shall provide the State with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of the Borrower that are issued after the Loan Closing Date and are secured from the same source or sources of repayment as the Loan.

(i) Insurance.

The Borrower shall maintain or cause to be maintained insurance policies with responsible insurers or self insurance programs providing against risk of direct physical loss, damage or destruction of its System, at least to the extent that similar insurance is usually carried by governmental units constructing, operating and maintaining system facilities of the nature of the Borrower's System, including liability coverage, all to the extent available at reasonable cost. Nothing herein shall be deemed to preclude the Borrower from exerting against any party, other than the State, a defense which may be available to the Borrower, including, without limitation a defense of immunity.

(j) Costs of the Project.

The Borrower certifies that (1) the Costs of the Project, as listed in Exhibits B and C(3) hereto and made a part hereof, is a reasonable and accurate estimation and based upon an engineer's feasibility report and engineer's estimate stamped by a registered professional engineer and (2) the Costs of the Project are not less than the sum of the proceeds of the Loan and the investment earnings projected to be derived from the investment of such proceeds.

(k) No ice of Material Adverse Change.

The B rrower shall promptly notify the State and the Trustee of any material adverse change in the activities, rospects or condition (financial or otherwise) of the Borrower, the Project or its System, or in the ability f the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants obligations and agreements under this Loan Agreement.

(l) Co ıtinuing Disclosure Requirements.

The B rrower shall provide the State with any information needed to comply with paragraph (b)(5) of the Securi es and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12), (the "Rule") with respect to)regon Bond Bank Revenue Bonds issued by the State Treasurer to fund any portion of the Borrower Loan. In addition, if the Borrower becomes an "obligated person" within the meaning of the Rule or ar 'Obligated Borrower," as such term is defined by the State or the State Treasurer of the State of Oregon the Borrower shall, in addition to the requirements of paragraph (g) and (h) of Section 2.02 of this Loan greement, provide the following to the State upon request:

(i) any and all financial information or operating data that may reasonably be requested by the State to comply with the Rule and

(ii) audited financial statements, when and if prepared and available, prepared in accordance with generally accepted accounting principles as established by the Government Accounting Standards Board as in effect from time to time; provided, however, that if audited financial statements are not available, unaudited financial statements will be provided with audited financial statements to follow when and if available.

(m) Co ıtract Covenants.

The B rrower covenants and agrees to comply with the terms of the Contract including the covenants of the Bor ower in Section 6 of the Contract.

(n) Co ıtinuing Representations.

The re resentations of the Borrower contained herein shall be true at the time of the execution of this Loan Agr ement and at all times during the term of this Loan Agreement.

ARTICLE III

LOAN TO BORROWER; AMOUNTS PAYABLE; GENERAL AGREEMENTS

SECTION 3.01. The Loan; Loan Term.

(a) The State hereby agrees to loan and disburse to the Borrower in accordance with Section 3.02 hereof, and the Borrower agrees to borrow and accept from the State, the Loan in the principal amount equal to the loan commitment set forth in Exhibit C(5) attached hereto and made a part hereof; provided, however, that (i) the State shall be under no obligation to make the Loan if the Borrower does not deliver the documents required by Section 6.3(a), (c) and (d) of the Bond Indenture (regardless of whether the Loan Agreement is assigned to the Trustee) to the State on or prior to the Loan Closing Date or an Event of Default has occurred and is continuing under the Bond Indenture or this Loan Agreement, and (ii) the obligation of the State to fund the Loan is contingent upon the availability of moneys in the Special Public Works Fund for use in the Project. The Borrower shall use the proceeds of the Loan strictly in accordance with Section 2.01(h) hereof.

(b) The term of the Loan is set forth on Exhibit D attached hereto. The Borrower hereby represents that the term of the Loan is not in excess of the usable life of the Project.

SECTION 3.02. Disbursement of Loan Proceeds.

The State shall disburse amounts which in the aggregate are not in excess of the sum of (a) principal amount of the Loan shown on Exhibit C(5) to this Loan Agreement together with (b) all earnings derived by the State from the investment of the proceeds of the Loan held in the Special Public Works Fund, to the Borrower upon receipt by the State of a requisition executed by the Borrower in substantially the form attached hereto as Exhibit E.

SECTION 3.03. Loan Payments and Other Amounts Payable.

The Borrower hereby covenants and agrees to repay the Loan in accordance with the terms of the Note. In the event that the Borrower receives written notification from the State, the Issuer or the Trustee that payments made pursuant to this Loan Agreement have been assigned by the State to the Trustee under the Bond Indenture, all payments hereunder or pursuant to the Note shall be made directly to the Trustee for the account of the State pursuant to such assignment. The Borrower acknowledges that payment or defeasance of the State Bonds by the Issuer or the State does not constitute payment of the amounts due under this Loan Agreement.

SECTION 3.04. Unconditional Obligations.

The obligation of the Borrower to make the Loan Repayments and all other payments required hereunder and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part contained herein is payable solely from the sources of repayment described in Section 3.09 hereto and shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments under this Loan Agreement remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of considerations, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project or the System, commercial frustration of the purpose, any change in the laws of the United States of America or of the State of Oregon or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the Issuer, the State or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project, this Loan Agreement or the Bond Indenture or any rights of set off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the Issuer, the State, the Trustee or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights. The Borrower shall not be obligated to make any payments required to be made by any other Municipality under any separate loan agreement or the Bond Indenture.

SECTION 3.05. Loan Agreement to Survive Bond Indenture and State Bonds.

The Borrower acknowledges that its duties, covenants, obligations and agreements hereunder shall survive the discharge of the Bond Indenture applicable to the State Bonds and payment of the principal of, redemption premium, if any, and interest on the State Bonds.

SECTION 3.06. Disclaimer of Warranties and Indemnification.

The Borrower acknowledges and agrees that (i) neither the Issuer, the State nor the Trustee makes any warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the System or the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Issuer, the State or the Trustee or their respective agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Project or the existence, furnishing, functioning or use of the System or the Project or any item or products or services provided for this Loan Agreement; and (iii) to the extent authorized by law, the Borrower shall indemnify, save and hold harmless the Issuer and the State against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Borrower, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement, provided, however, that the provisions of this clause (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.

SECTION 3.07. Loan Prepayments.

The Borrower may make Loan Prepayments upon prior written notice not less than ninety (90) days to the State and the Trustee and upon payment by the Borrower to the Trustee of the principal amount of the Loan Prepayments to be prepaid, plus the interest to accrue on such amount to the date of payment; provided, however, that

(a) no Loan Prepayment shall be made prior to the Optional Loan Prepayment date shown on Exhibit C(7) to this Loan Agreement or, if later, the date on which the State Bonds are first subject to optional redemption,

(b) each Loan Prepayment shall include the prepayment premium, if any, applicable to such Loan Prepayment as determined in accordance with Exhibit C(8) to this Loan Agreement or such greater amount required to prepay the State Bonds (including the payment of any expenses of the Trustee associated with such prepayment), and

(c) any Loan Prepayment may only be made upon the prior written approval of the State. Loan Prepayments shall be applied first to any expenses of the Trustee and accrued interest on the portion of the Loan to be prepaid and then to principal payments (including premium, if any) on the Loan in inverse order of their maturity.

SECTION 3.08. Unexpended Loan Proceeds.

Any proceeds of the Loan held by the State on the second anniversary of the Loan Closing Date shall be applied, on the next January 1 that is not less than forty five (45) days after such second anniversary date, or any earlier date specified in the Bond Indenture or the State Bonds, to prepay principal on the Loan in an amount equal to the amount of such unexpended proceeds less any amounts necessary to pay any arbitrage rebate due with respect to the Loan pursuant to Section 148(f) of the Code. Principal payments due on the Loan, as shown on Exhibit D attached hereto, shall be reduced in inverse order of their maturity to the extent of any principal prepaid on the Loan pursuant to this Section 3.08. To the extent that all principal due on the Loan is paid as a result of a prepayment of the Loan pursuant to this Section 3.08, any remaining proceeds of the Loan held by the State in the account established for the Borrower in the Special Public Works Fund shall be applied to pay any interest due on the Loan on the Loan prepayment date described in this Section 3.08. If any amounts remain in the account established for the Borrower in the Special Public Works Fund after the payment of amounts described in the preceding sentence, such amounts shall be the property of the State and the Borrower shall have no claim to such amounts.

SECTION 3.09. Source of Payment of Borrower's Obligations.

(a) The State and the Borrower agree that the amounts payable by the Borrower under this Loan Agreement, including, without limitation, the amounts payable by the Borrower pursuant to Section 3.03, Section 3.06, Section 3.07 and Section 5.04 of this Loan Agreement are payable from the source of repayment described in paragraphs (b) and (c) of this Section 3.09. Nothing herein shall be deemed to prevent the Borrower from paying the amounts payable under this Loan Agreement from any other legally available source.

(b) The amounts payable by the Borrower under this Loan Agreement are payable from:

(i) any sources of funds that are legally available to the Borrower,

(ii) the revenues and funds shown as sources of repayment of the Loan on the Special Conditions of Award attached to the Contract, and

(iii) the Borrower's general fund including the general revenues of the Borrower, other funds which may be available for such purpose and the Borrower's taxing power within the restrictions of Article XI, Section 11 and 11b of the Constitution of the State of Oregon. If the Borrower is not a county, the obligation of the Borrower to make payments hereunder is a full faith and credit obligation of the Borrower and is not subject to annual appropriation. If the Borrower is a county, the Borrower acknowledges its current intention to make all payments due hereunder on the dates on which such payments are due and, to the extent that funds are appropriated to make payments hereunder, the obligation of the Borrower to make payments hereunder is a full faith and credit of the Borrower.

(c) The Borrower expressly acknowledges that if the Borrower defaults on payments due under this Loan Agreement, the State of Oregon, pursuant to ORS 285.727, may withhold any amounts otherwise due to the Borrower to apply to payments due under this Loan Agreement. The State hereby covenants to enforce any remedy available to the State pursuant to ORS 285.727.

SECTION 3.10. Delivery of Documents.

Concurrently with the execution and delivery of this Loan Agreement, the Borrower will cause to be delivered to the State each of the following items:

a. an opinion of the Borrower's counsel substantially in the form set forth in Section 6.3 (a) of the Bond Indenture (such opinion or portions of such opinion may be given by one or more counsel); provided, however, that the State and the State's Counsel may permit variances in the form of such opinion if such variances are not to the material detriment of the interests of the holders of the State Bonds;

b. counterparts of this Loan Agreement and the Contract duly executed and delivered by an authorized official of the Borrower;

c. copies of the ordinance of the governing body of the Borrower authorizing the execution and delivery of this Loan Agreement and the Contract, certified by an Authorized Officer of the Borrower; and

d. such other certificates, documents, opinions and information as the State, the Trustee, the Issuer, the Bond Counsel, or the Underwriter may require.

SECTION 3.11. Maintenance of Records by State.

The State shall maintain records of all amounts held in accounts within the Special Public Works Fund allocable to the Loan. All earnings derived from the investment of such amounts shall be retained in and credited to such accounts and shall be available for disbursement to the Borrower pursuant to Section 3.02 hereof. The State shall provide the Borrower records relating to such accounts at least twice each year prior to the disbursement of all amounts held in such accounts.

ARTICLE IV

ASSIGNMENT

SECTION 4.01. Assignment and Transfer by State.

(a) The Borrower expressly acknowledges that, other than the right, title and interest of the State under Section 3.06 and Section 5.04, all right, title and interest of the State in, to and under this Loan Agreement either has been or may, at the sole discretion of the State, be assigned to the Trustee as security for the State Bonds as provided in the Bond Indenture, and that if any Event of Default shall occur, the Trustee, pursuant to the Bond Indenture, shall be entitled to act hereunder in the place and stead of the State. The Borrower hereby acknowledges the requirements of the Bond Indenture applicable to the State Bonds and consents to such assignment and appointment. The State acknowledges that the Borrower is not a party to the Bond Indenture and has no obligation to perform any of the State's covenants, agreements or obligations under the Bond Indenture or the State Bonds, and that the Borrower is only required to observe and perform its covenants, agreements and obligations under this Loan Agreement, the Contract and the Note and, if and when requested by the State, to cooperate with the State in order to enable the State to comply with the State's covenants, agreements or obligations under the Bond Indenture. This Loan Agreement, including, without limitation, the right to receive payments required to be made by the Borrower hereunder and to compel or otherwise enforce observance and performance by the Borrower of its other duties, covenants, obligations and agreements hereunder, may be sold by the State to a third party or may be further transferred, assigned and reassigned in whole or in part to one or more assignees or subassignees by the Trustee at any time subsequent to its execution without the necessity of obtaining the consent of, but after giving prior written notice to, the Borrower.

The State shall retain the right to compel or otherwise enforce observance and performance by the Borrower of its duties, covenants, obligations and agreements under Section 3.06 and Section 5.04; provided, however, that in no event shall the State have the right to accelerate the principal payable pursuant to the Loan in connection with the enforcement of Section 3.06 or Section 5.04.

(b) The Borrower hereby approves and consents to any assignment, sale or transfer of this Loan Agreement that the State deems to be necessary including any assignment, sale or transfer in connection with any refunding of the State Bonds or the issuance of additional bonds under the Bond Indenture or otherwise, in connection with any pooled loan program of the State.

SECTION 4.02. Assignment by Borrower.

(a) This Loan Agreement may not be assigned by the Borrower for any reason, unless the following conditions are satisfied:

(i) the State and the Trustee shall have approved such assignment in writing;

(ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Borrower's duties, covenants, agreements and obligations under the Loan Agreement and the Contract;

(iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Borrower under the Loan Agreement or the Contract;

(iv) the State shall have received an opinion of the State's Bond Counsel to the effect that such assignment will not adversely affect any exclusion of interest on the Loan or the State Bonds, from gross income for purposes of federal income taxation under Section 103(a) of the Code; and

(v) the State shall receive an opinion of Counsel to the effect that such assignment will not violate the provisions of the Bond Indenture or the Act.

(b) Except as provided in paragraph (c) of this Section 4.02, no assignment shall relieve the Borrower from primary liability for any of its obligations under this Loan Agreement or the Contract and in the event of such assignment, the Borrower shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement and the Contract.

(c) Paragraph (b) of this Section 4.02 shall not apply and the Borrower shall be relieved of its obligation under this Loan Agreement if either:

(i) The Borrower or the assignee demonstrate to the satisfaction of the State that the assignment will not adversely affect the rating of the State Bonds, or

(ii) A rating of the Loan is obtained which (a) addresses the assignment of the Loan Agreement (b) is no lower than the rating of the State Bonds and (c) satisfies the requirements of Section 2.2(a)(viii) of the Bond Indenture, or

(iii) The State consents to such assignment and certifies to the Borrower that this Loan Agreement has not been assigned to the Trustee and provides a copy of such certification to the Trustee.

SECTION 4.03. References to Trustee, Bond Indenture, State Bonds and Issuer.

During any period of time in which this Loan Agreement has not been assigned to the Trustee, all references in this Loan Agreement to "Trustee," "Bond Indenture," "State Bonds," "Underwriter" and "Issuer" and the provisions of this Loan Agreement pertaining thereto shall be void and of no force or effect except for purposes of determining the applicable requirements of the Bond Indenture or determining any requirements of this Loan Agreement that refer to provisions of the Bond Indenture.

ARTICLE V

DEFAULTS AND REMEDIES

SECTION 5.01. Event of Default.

If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default."

(a) failure by the Borrower to pay, or cause to be paid, on December 1 of any year any Loan Repayment required to be paid hereunder on such due date.

(b) failure by the Borrower to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Borrower for borrowed money (other than the Loan), after giving effect to the applicable grace period, the payments of which are secured by the source of repayment described in Section 3.09 hereof;

(c) failure by the Borrower to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a) of this Section which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the State or the Trustee, unless the State or the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the State or the Trustee may not unreasonably withhold their consent to an extension of such time up to 120 days from the delivery of the written notice referred to above if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Event of Default is corrected;

(d) any representation made by or on behalf of the Borrower contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan or in connection with the State Bonds, is false or misleading in any material respect;

(e) a petition is filed by or against the Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Borrower such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Borrower shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the Borrower or any of its property) shall be appointed by court order or take possession of the Borrower or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days; or

(f) any event of default under Section 7 of the Contract.

SECTION 5.02. Notice of Default.

The Borrower shall give the State and the Trustee prompt telephonic notice of the occurrence of any Event of Default referred to in Section 5.01(e) hereof, and of the occurrence of any other event or condition that constitutes an Event of Default at such time as any senior administrative or financial officer of the Borrower becomes aware of the existence thereof. Any telephone notice pursuant to this Section 5.02 shall be confirmed in writing as soon as practicable by the Borrower.

SECTION 5.03. Remedies on Default.

Whenever an Event of Default referred to in Section 5.01 hereof shall have occurred and be continuing, the State shall have the right to take, or to direct the Trustee to take, any action permitted or required pursuant to the Bond Indenture or the Loan Agreement and to take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Borrower hereunder, including, without limitation, appointment of a receiver of the System.

In addition, if an Event of Default referred to in Section 5.01(a) hereof shall have occurred and be continuing and if all or a portion of the principal of and interest on the Bonds has been accelerated pursuant to the Bond Indenture, the State shall have the right to declare, or to direct the Trustee to declare, all Loan Repayments and all other amounts due hereunder together with the prepayment premium, if any, calculated pursuant to Exhibit C(8) hereof (assuming that a prepayment penalty in an amount equal to two percent of the principal which has been accelerated shall be due in the case of an Event of Default that occurs and continues prior to the optional loan prepayment date shown on Exhibit C(7) hereto or, if later, prior to the date on which any State Bonds that funded the Loan in whole or in part are subject to optional redemption without the requirement for payment of any redemption premium) to be immediately due and payable, and upon notice to the Borrower the same shall become due and payable without further notice or demand.

SECTION 5.04. Attorney's Fees and Other Expenses.

The Borrower shall, on demand, pay to the Issuer, the State or the Trustee the reasonable fees and expenses of attorneys, whether at trial or on appeal, and other reasonable expenses (including without limitation the reasonable allocated costs of in-house counsel and legal staff) incurred by either of the Issuer, the State or the Trustee in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Borrower.

SECTION 5.05. Application of Moneys.

Any moneys collected by the State or the Trustee pursuant to Section 5.03 hereof shall be applied (a) first, to pay any attorney's fees, Trustee's fees or other fees and expenses owed by the Borrower pursuant to Section 5.04 hereof, (b) second, to pay interest due and payable on the Loan, (c) third, to pay principal due and payable on the Loan, (d) fourth, to pay any other amounts due and payable under this Loan Agreement, and (e) fifth, to pay interest and principal on the Loan and other amounts payable hereunder as such amounts become due and payable.

SECTION 5.06. No Remedy Exclusive; Waiver; Notice.

No remedy herein conferred upon or reserved to the State or the Trustee is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. To entitle the State or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

SECTION 5.07. Retention of State's Rights.

Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof or of the Bond Indenture, or anything else to the contrary contained herein, the State shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Borrower at law or in equity, as the State may, in its discretion, deem necessary to enforce the obligations of the Borrower to the State pursuant to Section 3.03, Section 3.06 and Section 5.04 hereof.

SECTION 5.08. Default by the State.

In the event of any default by the State under any covenant, agreement or obligation of this Loan Agreement or the Contract, the Borrower's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the State hereunder as may be necessary or appropriate. The State shall on demand pay to the Borrower the reasonable fees and expenses of attorneys and other reasonable expenses in the enforcement of such performance or observation.

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. Notices.

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Borrower at the address specified on Exhibit C attached hereto and made a part hereof and to the State, the Issuer and the Trustee at the following addresses:

(a) State: Economic Development Department
775 Summer Street NE
Salem, Oregon 97310
Attention: Manager, Regional Development Division

(b) Trustee: First Interstate Bank of Oregon, N.A.
1300 SW Fifth Avenue
Portland, Oregon 97201
Attention: Corporate Trust Department

(c) Issuer: State Treasurer
350 Winter Street NE
Salem, Oregon 97310-0840
Attention: Manager, Debt Management Division

Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

SECTION 6.02. Binding Effect.

This Loan Agreement shall inure to the benefit of and shall be binding upon the State and the Borrower and their respective successors and assigns. In addition, the Trustee shall be considered as a beneficial party to this Loan Agreement, with all attendant rights to enforce the duties, obligations, covenants and agreements of the Borrower set forth herein, to the same extent as if the Trustee was a party hereto.

SECTION 6.03. Severability.

In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

SECTION 6.04. Amendments, Supplements and Modifications.

This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the State and the Borrower. This Loan Agreement may not be amended, supplemented or modified in a manner that is not in compliance with the Act and the Bond Indenture or so as to adversely affect the interest of the owners of the State Bonds.

SECTION 6.05. Execution in Counterparts.

This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 6.06. Applicable Law.

This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, including the Act.

SECTION 6.07. Consents and Approvals.

Whenever the written consent or approval of the State shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the State unless otherwise provided by law or by rules, regulations or resolutions of the State or unless expressly delegated to the Trustee.

SECTION 6.08. Compliance with Bond Indenture.

The Borrower covenants and agrees to observe and comply with, and to enable the State to observe and comply with, all duties, covenants, obligations and agreements contained in the Bond Indenture.

SECTION 6.09. Further Assurances.

The Borrower shall, at the request of the State, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement.

IN WITNESS WHEREOF, the State and the Borrower have caused this Loan Agreement to be executed and delivered, effective as of the Loan Closing Date set forth on Exhibit C(1) hereto.

(SEAL)

STATE OF OREGON

By: Yvonne L Addington
Yvonne L. Addington, Manager
Regional Development Division

Date: 5/27/97

BORROWER

By: _____
(Signature)

Title: _____

Date: 5/8/97

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PROMISSORY NOTE

ECONOMIC DEVELOPMENT DEPARTMENT
STATE OF OREGON

$600,000

May 8, , 19 97

Bend , Oregon

For value received, City of Bend (hereinafter "Borrower"), promises to pay to the Economic Development Department of the State of Oregon, having its principal office at 775 Summer Street NE, Salem, Oregon 97310 (hereinafter "State"), or order, the principal sum of six hundred thousand dollars ($600,000) plus interest from the date or dates specified in paragraph (b) below, on the unpaid balance at the initial interest rate of six percent (6%) per annum. Effective as of the date of any assignment of the Loan Agreement by the State to the Trustee pursuant to Article IV of the Loan Agreement for the purpose of reimbursing the SPWF from the proceeds of State Bonds for the costs of funding the Loan, the interest rate shall convert to the rate described in paragraph (f) below. Interest shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty- (30-) day months.

Principal and Interest shall be payable as follows:

(a) The Borrower hereby promises to pay to the order of the State the principal amount specified on Exhibit C(5) attached to the Loan Agreement at the times and in the amounts specified on the repayment schedule on Exhibit D to the Loan Agreement.

(b) Other than interest on any draws made by the Borrower of any portion of the principal sum of this Promissory Note that are made pursuant to the terms of the attached Loan Agreement in advance of the Loan Closing Date specified on Exhibit C(1) to the Loan Agreement, all interest due hereunder shall begin to accrue as of such Loan Closing Date. Interest on any draws made by the Borrower of any portion of the principal sum of this Promissory Note in advance of the Loan Closing Date shall begin to accrue as of the date or dates on which such draws are made.

(c) In the event that the Borrower receives written notification from the State, the Issuer or the Trustee that payments made pursuant to this Loan Agreement have been assigned to the Trustee under the Bond Indenture, all payments hereunder shall be made directly to the Trustee for the account of the State pursuant to such assignment.

(d) All payments required hereunder shall be paid by the Borrower no later than the first day of the month preceding the month shown on Exhibit D to the Loan Agreement during which such payment is due.

(e) Each payment made by the Borrower hereunder shall be applied first to interest then due and payable on the Loan, then to the principal of the Loan.

(f) Effective as of the date of any assignment of the Loan Agreement by the State to the Trustee pursuant to Article IV of the Loan Agreement for the purpose of reimbursing the SPWF from the proceeds of State Bonds for the costs of funding the Loan, the interest rate on the Loan shall convert to a rate, as calculated by the State, equal to the lowest rate (in one basis point increments) that will be sufficient to ensure that the annual amounts paid by the Borrower pursuant to this Promissory Note shall be no less than the Borrower's pro-rata portion of the maximum annual debt service on the Bonds.

If any default occurs in the payment of an installment, the entire remainder of the unpaid balance, including principal, interest and other charges, if any, shall, at the option of the State, become immediately due and payable. If this Note is placed in the hands of an attorney for collection, Borrower agrees to pay the reasonable collections costs incurred by the holder hereof, including such reasonable attorney fees for trial and appellate services as may be fixed by the court.

This note is not payable prior to its maturity except as provided for in Sections 3.07 and 3.08 of the Loan Agreement.

Presentment, demand, protest, and notice of dishonor, protest and nonpayment are waived by Borrower. This Note shall be binding upon the Borrower and its successors and assigns. If the Borrower or any assignee hereof becomes insolvent, commits an act of bankruptcy, commences or becomes subject to any proceeding under the federal Bankruptcy Act, as amended, or any other insolvency or debtor's relief law, then the entire indebtedness evidenced by this Note shall, at the option of the State, become immediately due and payable.

Failure to exercise any option available to the State under the terms of this Note and the Loan Agreement shall not constitute a waiver of the right to exercise the option in the event of any continuing or subsequent default, and no waiver of any subsequent breach of the same or of any other provision of this Note.

Payments of principal, interest and other fees or charges dues under this Note are payable at the offices of the State, 775 Summer Street NE, Salem, Oregon 97310, or such other place as the State may designate in writing. Any notice to the State shall be given by certified mail, return receipt requested, at the address stated above. Any notice to Borrower provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to Borrower at the address specified on Exhibit C(2) attached to the Loan Agreement, or such other address as Borrower may designate in writing to the State.

The terms, provisions, covenants and cond ons contained in this Note shall apply to, inure to the benefit of and bind the parties hereto and thei espective heirs, successors and assigns.

In connection with the Loan evidenced by is Note, the Borrower has executed a Loan Agreement of equal date hereto and the indebtedness eviden d by this Note is secured under that Loan Agreement. Any capitalized terms not defined in the Note all have the meanings assigned to such terms in the Loan Agreement.

IN WITNESS WHEREOF, Borrower has used this Note to be executed this 8th day of May, 1997.

BO ROWER

By

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NOTI TO BORROWER

DO NOT SIGN THIS NOTE BEFORE YOU REA T. THIS NOTE IS NOT SUBJECT TO FULL OR PARTIAL PREPAYMENT BEFORE THE DATE PROVIDED F REPAYMENT IN THIS NOTE AND IN THE LOAN AGREEMENT AND A PENALTY FOR ANY SUCI REPAYMENT MAY BE CHARGED AND COLLECTED.

4. Tax-Exempt Status. The City of Bend covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the City of Bend pursuant to the Loan Agreement not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The City Manager or the Finance Director of the City of Bend may enter into covenants on behalf of the City of Bend to protect the tax-exempt status of the interest paid by the City of Bend pursuant to the Loan Agreement and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the Department or their bond counsel to protect the tax-exempt status of such interest.

5. Reimbursement Bonds. The City of Bend may reimburse expenditures for the Project with amounts received from the Department pursuant to the Financing Documents. Additionally, the City of Bend understands that the Department pay fund or reimburse itself for the funding of amounts paid to the City of Bend pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This ordinance shall constitute "official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations promulgated by the United States Department of the Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of the City's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.

6. Declaration of Emergency. The City of Bend declares that an emergency exists in order that there be no delay in financing the Project as provided in this ordinance. Therefore, this ordinance shall be in force and effect from and after passage by the City of Bend.

Read for the first time the 5th day of February, 1997.

Read for the second time 19th day of February, 1997.

Placed upon its passage the 19th day of February, 1997.

YES: 7 NO: 0

Authenticated by the mayor the 19th day of February, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1672

AN ORDINANCE AMENDING THE CITY OF BEND SIGN CODE ORDINANCE NO. NS-1374 AND DECLARING AN EMERGENCY

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 1.060 (29) is hereby deleted:

[29. Sign Review Committee. This committee shall be established in accordance with the provisions of Appendix "A", which is incorporated hereby.]

SECTION 2. Section 2.030 (1) is hereby amended to read as follows:

1. Applications for a sign permit shall be made in writing upon forms furnished by the Building Official. Such applications shall include a scale drawing of the sign including dimensions, height and materials and showing its relationship to the ground or to any building or structure to which the sign is proposed to be installed or affixed. When appropriate, a plot plan drawn to scale shall be submitted which indicates the location of proposed signing relative to street and property lines. Prior to the issuance of a sign permit, the Building Official may review the construction aspects of the proposed sign. The Building Official or designee may require other pertinent information where in their opinion, such information is necessary to determine compliance with the provisions of this ordinance. [Applications for signs in the CB district shall be referred to the Bend Sign Review Committee for review and approval. The committee shall act upon said application within fifteen (15) days of its filing.]

SECTION 3. Section 3.010 (5 & 13) are hereby amended to read as follows:

5. Kiosk on public property.[or as approved otherwise by the Sign Review Committee.]

13. Graphics that do not advertise any business, commercial product or service. [Provided, however, graphics covering more than 10% of a building facade shall be subject to review by the Sign Review Committee.] A graphic is defined herein as a painting, drawing, engraving or any other form which expresses an idea by means of lines, marks or characters imposed on a surface.

SECTION 4. Section 3.020 (5 & 5a) are hereby amended to read as follows:

5. Street banners across a public street or alley advertising a public event may be allowed for a period not more than thirty days before and three days after the event. [Said banners shall first be approved by the Sign Review Committee.] Any person proposing a banner shall demonstrate that the banner is safe and will not deteriorate within the period it is proposed to stand. [The Committee shall consider the opinion of the building official regarding safety before approving the banner.]

5A. Sidewalk banners attached to poles or street lights and advertising a public event or promoting the community or portion thereof may be allowed. [if approved by the Sign Review Committee.] Any person or groups proposing sidewalk banners shall demonstrate the banner(s) are safe and will not adversely affect the surrounding area and will not deteriorate within the period they are proposed.

SECTION 5. Section 4.030 is hereby amended to read as follows:

Signs Permitted In Central Business District (CB) Zone. This section shall apply to all signs in the (CB) Zone. All signs in the (CB) Zone shall be first approved [by the Bend Sign Review Committee] in accordance with the standards set forth herein and guidelines set forth in Appendix B which is attached hereto and incorporated by reference.

SECTION 6. Section 4.057 (3) is hereby amended to read as follows:

3. As an alternative to the above specifications and restrictions set forth for a business complex or shopping center developments or buildings, a complex or shopping center may utilize a comprehensive sign plan. [if they obtain the approval of the City of Bend Sign Review Committee.] The business must submit a proposed comprehensive signing plan which must include the following:

   a. A scale drawing of each elevation showing existing and proposed signage for an entire complex.

   b. A list of the maximum number of tenant businesses projected to occupy the complex or shopping in the next three years if the business complex is not fully occupied at the time of approval of this plan.

   c. Paint color chips and material samples must be submitted with the proposal.

   [d. Once a comprehensive sign plan is adopted by the Sign Review Committee for a business complex, the plan will supersede the requirements of Sections 4.057 (1) & (2).]

   d.[e.] The approved comprehensive sign plan for a business complex will be kept on file in the City of Bend Building Department. All signs displayed by a business complex must then meet the requirements specified in the comprehensive sign plan.

   e.[f.] Once a comprehensive sign plan has been approved, any changes in signing for the complex must be approved by the **Building Official** [Sign Review Committee] in the same manner as approval is obtained for an initial comprehensive sign plan.

SECTION 7. Section 4.095 (9) is hereby amended to read as follows:

9. The maximum number of billboards allowed in the City of Bend is 23. These billboards are identified in Appendix C which is attached hereto and incorporated by reference. No new billboard may be erected after the effective date of this ordinance unless it replaces an existing billboard. Provided, however, billboards outside the City, inside the Bend Urban Area, and existing on the effective date of this ordinance may be added to the maximum number if the area in which they are located is annexed to the City of Bend. The [Sign Review Committee and] staff shall inventory those billboards existing outside the City but within the Urban Area. An owner whose billboard is not included in this inventory may request the committee add that billboard to the number allowed if it is shown the billboard was existing on the effective date of this ordinance.

SECTION 8. Section 4.097 is hereby amended to read as follows:

4.097 Banners. In the CB zone, a street or sidewalk banner that do not advertise a product may be displayed. [Said banners shall be subject to review and approval by the Sign Review Committee.] Said banners shall consist of cloth or similar material and may not interfere with the signage of adjacent businesses. The size of any banner allowed shall be in harmony with the building and the surrounding area.

SECTION 9. Section 7.010 is hereby amended to read as follows:

7.010 Variance Application. An application for a sign permit or an applicant owning or leasing a sign that is not in compliance with the provisions of this ordinance may seek a variance to the provisions of this ordinance by filing an application for a variance with the City of Bend [Sign Review Committee]. A variance request for sign location for sign height or area may be allowed by the Building Official or designee if the amount of the variance requested is less than ten percent (10%) of the applicable provision. [All other variance requests must be approved by the City of Bend Sign Review Committee.] A decision of the Building Official or designee may be appealed to the **Bend Urban Area Planning Commission within 10 days of the decision.** [City of Bend Sign Review Committee within thirty days of the official's decision.] A variance may be granted upon a finding that all of the following criteria can be satisfied:

1. The request will be the minimum variance necessary to alleviate the special hardships or practical difficulties faced by the applicant in meeting the requirements of this ordinance.

2. There are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property that do not generally apply to other properties or uses in the same zoning district.

3. The Building Official[, Sign Review Committee] or Bend Urban Area Planning Commission may attach such conditions to granting all or a portion of any variance as necessary to achieve the purpose of this ordinance.

4. A variance application fee shall be set by resolution of the Bend City Council. A variance fee shall be charged for all variance requests.[except those submitted to the Committee by the Building Official.]

SECTION 10. Section 7.040 is amended to read as follows:

7.040 [Sign Committee Review.] **Application Review.** An application for an historical sign designation shall be reviewed by the **Bend Urban Area Planning Commission.** [Sign Review Committee.] The **commission** [committee] may designate a sign as historical if it finds the following criteria have been met or can be met with conditions:

1. The sign is essentially as constructed, with sufficient original workmanship and material to serve as instruction in period of fabrication.

2. Through public interest, sentiment, uniqueness or other factors, the sign has come to connote an historical period.

3. Due to removal of similar objects or the uniqueness of this sign, the sign is singularly appropriate to represent an historical theme or period.

4. The sign is associated with significant past trends in structure materials and design and in conformance with generally accepted principles of good design and architecture.

5. The sign was constructed early in the relative scale of local history and is one of a few of its age remaining in the City.

SECTION 11. Section 7.050 is hereby amended to read as follows:

7.050 Any decision of the **Building Official** [Sign Review Committee] may be appealed to the Bend Urban Area Planning Commission in accordance with the City of Bend land use procedures. A decision of the Planning Commission shall be final.

SECTION 12. Appendix "A" of NS-1374 is hereby deleted.

[Section 1. Membership.

1. The City of Bend Sign Review Committee shall consist of five members who shall be recommended by the Mayor and shall be appointed by the City Commission. The Sign Review Committee shall receive no compensation, but shall be reimbursed for duly authorized expenses.

2. One member of the committee shall be employed in either the sign painting or sign graphics profession or shall be employed in the architectural or designing profession. Two members shall be appointed from the downtown business community. All other members of the committee shall be at-large members. Not less than three of the five members must reside within the corporate limits of the City of Bend.

3. Not more than two persons of the Sign Review Committee may be employed in the sign painting, graphics, or any other profession relating to the making, selling, or display of signs.

4. Any vacancy in the committee shall be filled by the City Commission for the unexpired term of the predecessor in the office.

Section 2. Terms of Office.

1. The members of the Sign Review Committee shall hold office for two years. In order to provide an overlapping term, three members of the committee shall be appointed for a term of three years for the first term, and after the first three year term, the length of term for all members shall be for two years.

Section 3. Election of Chairperson and Vice Chairperson.

1. The committee at its first meeting each calendar year shall elect a chairperson and vice chairperson who shall be voting members and who shall hold office for that year.

Section 4. Quorum and Meeting Schedule.

1. A majority of the members of the committee shall constitute a quorum.

2. The committee shall meet when needed and scheduled by the City staff. Said meeting shall be conducted according to Roberts Rules of Order, Revised.

Section 5. Powers and Duties of the Committee.

1. The Sign Review Committee shall discharge those responsibilities authorized by the Bend Sign Ordinance.

2. The Sign Review Committee shall also review the sign code periodically and make recommendations to the City Commission regarding modifications and enforcement.]

SECTION 13. Declaration of Emergency

The City Council declares that an emergency exists in order that there be no delay in administering sign permits as provided by the City of Bend Sign Ordinance. Therefore, this Ordinance shall be in force and effect on February 19, 1997.

Read for the first time the 5th day of February, 1997.

Read for the second time the 19th day of February, 1997.

Placed upon its passage the 19th day of February, 1997.

YES: 7 NO: 0

Authenticated by the Mayor the 19th day of February, 1997.

Mayor Bob Woodward

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1673

AN ORDINANCE AMENDING THE APPEALS PROVISIONS OF THE CITY OF BEND'S UNIFORM LAND USE PROCEDURE ORDINANCE.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Sections 20, 21 and 22 of Ordinance NS-1556 are amended to read:

Section 20. Appeals.

(1) Appeals of land use decisions can only be perfected by filing a Notice of Appeal with the City's Development Services Director. The Notice of Appeal must be filed within ten days of the mailing date of the decision being appealed.

(2) The Notice of Appeal shall contain:

(a) A description of the decision which is being appealed, including the date of the decision, the persons and the property affected by the decision.

(b) A statement describing the interest the person who is appealing has in the decision. Only persons who have proper standing as provided by law, and who have participated in the decision being appealed may appeal the decision. The statement of interest must demonstrate the person's standing and participation.

(c) A description of the issues sought to be raised by the appeal; and a statement that the issues were raised during the proceeding that produced the decision being appealed. This description must include the specific criteria relied upon as the basis for the appeal, and an explanation of why the decision has not complied with the standards or requirements of the criteria. The issues raised by the appeal must be stated with sufficient specificity to afford the reviewing authority an opportunity to resolve each issue raised.

(d) The following information which shall provide the basis for a determination by the City Council on whether to grant discretionary review of the decision being appealed:

(A) How the appeal presents issues that have significant public policy or community wide implications for the City, as opposed to more limited issues which primarily involve the directly affected property or persons involved in the land use decision being appealed.

(B) Why it is necessary or desirable for the City Council to review these issues; and why the issues cannot be adequately and fairly reviewed by the Land Use Board of Appeals.

(e) If the appeal asks for City Council discretionary review of the decision being appealed, and the person appealing wants to present additional evidence (beyond that already in the record made as part of the decision being appealed), then the Notice of Appeal shall also contain:

(A) A statement summarizing the new evidence and the criteria to which it will relate.

(B) An explanation why the proposed new evidence was not submitted as part of the record made in the decision being appealed. Evidence that is substantially similar to evidence already in the record of the decision being appealed will not be allowed. Evidence that could have been submitted in the record of the decision being appealed will not be allowed unless there is a compelling reason that justifies its presentation as part of the appeal.

(3) The land use appeal filing fee must be paid to the City as a condition to the filing of the Notice of Appeal.

(4) In addition to appeals of City land use decisions, the City Council may call up a land use

COPY OF SECTIONS 20, 21 & 22 OF ORDINANCE NS-1556 PRIOR TO AMENDMENT BY WAY OF ORDINANCE NS-1673

Section 20. Appeals.

(1) An affected party may appeal a decision of the Director to the hearings body, or may appeal a decision of the hearings body to the City Commission, by filing a "Notice of Appeal" with the Director. The "Notice of Appeal" shall be as provided in Section 20 of this ordinance and filed within ten (10) days of mailed notice of the decision.

(a) If the tenth day of the mailed notice falls on a weekend or a City holiday the next working day shall be considered the tenth day.

(b) If the hearings body has recommended against a proposal, the City Commission will only consider an appeal filed by the applicant.

(2) Within the appeal period, the City Council, acting upon the recommendation of the City Manager or upon its own motion, may order a review of any lower level decision. Such review shall be restricted to the record made on the decision being reviewed, unless the City Council determines that a limited hearing to allow additional testimony or other evidence should be held, or unless the City Council determines that a de novo hearing should be held.

(3) For any appeal proceeding, the Director shall cause notice to be provided in the same manner as provided for the original decision and shall provide notice to any other parties to the proceedings who have requested notice in writing.

[Section 20 (2) amended by ORD. No. NS-1650, passed January 17, 1996]

Section 21. Requirements of Notice of Appeal. A "Notice of Appeal" shall contain:

(1) An identification of the decision sought to be reviewed, including the date of the decision.

(2) A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings.

(3) The specific criteria relied upon for appeal and a statement that the issue was raised at the previous review level. The issues raised by the appellant must be stated with sufficient specificity so as to afford the governing body and applicant, if appropriate, an adequate opportunity to resolve each issue.

(4) If de novo review is requested, a statement summarizing the new evidence which will be offered and the criteria to which it will relate.

Section 22. Scope of Review of an Appeal.

(1) The reviewing body shall determine the scope of review on appeal to be one of the following:

(a) Restricted to the record made on the decision being appealed; or

(b) A limited hearing to allow additional testimony or other evidence that could not reasonably been presented for the prior decision, or to such issues as the reviewing body determines necessary for a proper resolution of the matter; or

(c) A de novo hearing on the merits.

(2) To determine whether the appeal shall be made on the record or as a limited hearing the reviewing body shall consider all of the following in making such a decision:

(a) Prejudice to the parties.

(b) Convenience or availability of evidence at the time of the initial hearing.

(c) Surprise to opposing parties.

(d) The competency, relevancy, and materiality of the proposed testimony or other evidence.

decision for its review at any time within ten days of the mailing date of the decision.

Section 21. Appeals to the Hearings Officer.

The review of all appeals to the Hearings Officer shall be de novo; and the record shall include the land use application or request which is the subject of the appeal, any staff report, all written comments, exhibits or any other materials or information considered by the decision maker in the proceedings that produced the decision being appealed.

Section 22. City Council Review of Appeals.

(1) Review of land use decisions by the City Council on appeal shall be discretionary. A decision by the City Council to not grant discretionary review of the appeal shall be the final determination of the City, and the appeal of the decision shall be to the Land Use Board of Appeals as provided by law. The City Council's decision whether to grant discretionary review shall be made without testimony or argument from persons interested in the appeal, except as specifically permitted by the City Council.

(2) The scope of review for appeals that are granted discretionary review by the City Council shall be:

(a) Restricted to the issues raised in the Notice of Appeal, or as prescribed by the City Council for decisions called up by the City Council for review.

(b) Be conducted during an appeal hearing before the City Council on the record made as part of the decision being appealed, unless the City Council has permitted the presentation of new evidence as part of the appeal.

(c) De novo review if the City Council so chooses.

(3) The record for discretionary review by the City Council shall include:

(a) The land use application or request which is the subject of the appeal, any staff report, and all written comments, exhibits, or any other materials or information considered by the decision maker in the proceedings that produced the decision being appealed.

(b) A written transcript of all proceedings before the decision maker, or a stipulated written summary of the proceedings submitted by all of the parties to the appeal.

(4) An appeal hearing before the City Council shall be conducted according to such procedures as the City Council shall prescribe, which shall include an opportunity for presentations by the parties to the appeal.

(5) Decisions reviewed by the City Council can be affirmed, remanded, reversed, or modified in whole or in part by the City Council.

Section 2. Sections 23, 24, and 25 of Ordinance NS-1556 are repealed.

Read for the first time this 5th day of February, 1997.
Read for the second time this 19th day of February, 1997.
Placed upon its passage the 19th day of February, 1997.

YES: 7 NO: 0

Authenticated by the mayor the 19th day of February, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1674

AN ORDINANCE REPEALING THE BEND AIRPORT COMMISSION

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code sections 1.500 to 1.506 (relating to the creation and duties of the Bend Airport Commission) are repealed.

Read for the first time the 19th day of March, 1997.

Read for the second time the 2nd day of April, 1997.

Placed upon its passage the 2nd day of April, 1997.

YES: 5 NO: 2

Authenticated be the Mayor the 2nd day of April, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. 1675

AN ORDINANCE AMENDING CITY OF BEND CODE, CHAPTER 7, REPEALING AND AMENDING CERTAIN REGULATORY LICENSES

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Sections 7.200 through 7.250 of Bend Code, Chapter 7 are amended by changing those sections to read:

REGULATORY **PERMITS** [LICENSES]

GENERAL

7.200 Applicability and Definitions.

(1) The provisions of section 7.200 to 7.924 shall apply to sections 7.270 to 7.924 when not in conflict with specific provisions contained in those sections.

(2) As used in sections 7.202 to 7.924 the term "Manager" shall include his/her designee.

[(3) As used in sections 7.202 to 7.924 the term "License" shall also mean "permit."]

7.202 Purpose.

(1) The regulatory [license] **permit** provisions of section 7.200 to 7.240 are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.

(2) Obtaining a regulatory [license] **permit** shall not exempt the [licensee] **permittee** from other Code or ordinance requirements, including business license tax and parking district tax requirements.

7.204 [Licenses] **Permits** Required. No person shall engage in an activity or operate a device regulated under sections 7.270 to 7.924 without first obtaining a [license] **permit** from the city as provided in those sections or without complying with conditions imposed by a [license] **permit** obtained under those sections.

7.206 [License] **Permit** Duration. [Unless a shorter term is specified, new licenses shall be valid from the date of issuance to the next following December 31 and shall be renewable annually for a term of one year, beginning on January 1.] **The duration of the Permit shall be as provided in the permit.**

7.208 [License] **Permit** Renewal [and Late Penalty].

(1) The application for renewal of a [license] **permit** shall be made to the city prior to the [license] **permit** expiration date. [A penalty of $2.50 or 25 percent of the annual fee, whichever is greater, shall be added to the license fee accompanying a later renewal application. The effective date of a renewed license shall be January 1 if the application for renewal is made prior to the current license expiration date. Renewal license applied for after January 1 shall be effective on the date of issuance.]

(2) If a [licensee] **permittee** fails to apply for and pay the required fee, [including any accrued penalties,] within 30 days from the expiration date of the [license] **permit**, and continues to operate without a valid [license] **permit**, a new application fee[, in addition to the license renewal fee and any accrued penalties,] must be paid prior to issuance of the [license] **permit**.

7.210 Review of Renewal. If the city has received complaints about the [licensed] **permitted** activity or device, the application for renewal of the [license] **permit** may be reviewed under section 7.214.

7.212 Application Requirements. Application for all [licenses] **permits** required by sections 7.270 to 7.924 shall be made to the city on forms prescribed by the Manager. Application shall be made at least 30 days prior to the date the [license] **permit** is requested to be effective. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity or device to be [licensed] **permitted** and shall provide for other information as required by specific [license] provisions of this code or as necessary for review. The application shall be signed by the applicant and shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications by the city. All fees shall be paid at the time of application. Fees shall be refunded if an application is denied, less the investigation fee set by resolution pursuant to the Bend Cost Recovery Code.

7.214 Application Review. Each application shall be referred to the person, department or agency designated by this code or the Manager to review the application.

7.216 Information from Applicant. A person, agency or department designated to review a [license] **permit** application may require the applicant to supply information necessary to determine under section 7.214 the applicant's qualifications for the [license] **permit**. If the applicant fails to supply information so required or submits false or misleading information, the [license] **permit** shall be suspended or denied.

7.218 Criteria for Grant or Denial.

(1) Approval or denial of the application shall be based on consideration of all available evidence indicating whether the applicant meets the requirements of this code for the [license] **permit** that the applicant seeks.

(2) The [license] **permit** shall not be granted if:

(a) The activity or device to be [licensed] **permitted** would not comply with this Code, city ordinances or state or federal law.

(b) The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the [licensed] **permitted** activity.

(c) The [licensed] **permitted** activity or device would endanger property or the public health or safety; or

(d) The applicant's past or present violation of law or ordinance, including a violation that does not lead to a conviction, presents a reasonable doubt about his/her ability to perform the [licensed] **permitted** activity without danger to property or public health or safety.

7.220 Issuance or Denial by the Manager. For regulatory [license] **permit** applications required to be made to the Manager, the following provisions shall apply:

(1) After receipt of reports from all persons, departments and agencies designated to review an application, the Manager shall determine whether the applicant qualifies for issuance or renewal of a [license] **permit** pursuant to section 7.216.

(2) If the applicant is qualified, the Manager shall issue or renew the [license] **permit**.

(3) If, on the basis of the application review under section 7.214 the Manager determines that the applicant does not qualify for issuance or renewal of the [license] **permit** applied for, the Manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for appeal in section 7.228.

7.222 Issuance or Denial by the City [Commission] **Council**. For regulatory [license] **permit** applications required to be made to the [Commission] **Council**, the following provisions shall apply:

(1) After receipt of review reports from all persons, departments and agencies, the Manager shall prepare a background and recommendation report and present it to the [Commission] **Council** at its next regularly scheduled meeting. The applicant shall be advised by mail of the time and place of the [Commission] **Council** meeting.

(2) Based upon the report of the Manager, plus any additional evidence that may be presented to the [Commission] **Council** during the course of the meeting, the [Commission] **Council** shall determine whether the applicant qualifies for issuance or renewal of the [license] **permit** pursuant to section 7.216.

(3) If the applicant is qualified, the [Commission] **Council** shall issue or renew the [license] **permit.**

(4) If the [Commission] **Council** determines that the applicant does not qualify, the application shall be denied and the applicant shall be notified in writing. The notice shall state the reasons for the denial.

(5) The decision of the [Commission] **Council** shall be final.

7.224 Revocation of [License] **Permit**. The Manager, upon determining that a [licensed] **permitted** activity, establishment or device is violating this Code, city ordinances, or state or federal law, shall notify the [licensee] **permittee** in writing that the [license] **permit** is to be revoked. Said violations need not lead to a conviction but must establish a reasonable doubt about the [licensee's] **permittee's** ability to perform the [licensed] **permitted** activity without danger to property or public health or safety. The notice shall be given at least 30 days before the revocation. If the violation ends within 30 days, the Manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the [licensee] **permittee** of the provisions of section 7.228.

7.226 Suspension of [License] **Permit**. Upon determining that a [licensed] **permitted** activity or device presents a substantial danger to person or property, the Manager may suspend the [license] **permit** for the activity or device at once. The suspension shall take effect immediately on notice being received by the [licensee] **permittee**, or being delivered to the [licensee's] **permittee's** business address as stated on the [licensee's] **permittee's** application for the [license] **permit** that is being suspended. The notice shall be mailed to the [licensee] **permittee** and state the reason for the suspension and inform the [licensee] **permittee** of the provisions for appeal under section 7.228. The manager may continue suspension so long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under section 7.228.

7.228 Appeal.

(1) An applicant whose application to the Manager for a [license] **permit** has been denied, or a [licensee] **permittee** whose license had been denied renewal, has been suspended, or is to be revoked, may within 30 days after the notice of denial, suspension or revocation is mailed, appeal in writing to the [Commission] **Council**. The appeal shall be filed with the City Recorder and shall state:

(a) The name and address of the appellant.
(b) The nature of the determination being appealed.
(c) The reason the determination is incorrect.
(d) What the correct determination of the appeal should be.

(2) An appellant who fails to file such a statement within the time permitted waives his/her objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The [Commission] **Council** shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The

appellant shall be provided at least 14 days written notice of a hearing on the appeal.

(3) At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence as used by courts of law do not apply, and the decision of the [Commission] **Council** after the hearing is final.

7.230 Posting of [License] **Permit**.

(1) Except as provided in Subsection (2), the [license or] permit shall be posted in a conspicuous place upon the business premises, available for inspection by the public, employes and prospective employes of the business.

(2) If the [licensee] **permittee** has no office, business premises or other established place of business within the city, the [license] **permit** shall be at all times in the possession of the representative of the business present within the city while business is being transacted by any employe or representative within the city.

7.232 Applicability to Persons Exempt by State or Federal Law. Nothing in sections 7.270 to 7.924 shall be construed to apply to any conduct which is exempt from the [license or] permit requirements or regulations imposed by those sections by virtue of the Constitution or laws of the United States or the constitution or laws of the state.

7.234 Transfer or Assignment of [License] **Permit**. Except as otherwise provided by sections 7.270 to 7.924 no person shall transfer or assign a [license or a] permit issued under this chapter.

7.236 Prorating of [License] **Permit** Fee. The [license] **permit** fee imposed by sections 7.270 to 7.924 shall not be subject to proration.

7.238 Penalty. A violation of sections 7.270 to 7.924 is a Class A civil infraction.

7.240 Enforcement. In addition to the civil infraction procedure, the city may file a civil action to recover taxes unpaid or, after mailing notice via certified mail to the person responsible for said business, the city may place a lien against the real property where the business is located for the amount of the tax plus interest. Said lien shall be filed with the city recorder and noted in the lien docket.

7.250 Polystyrene Foam Product Use. No readily disposable products containing or composed of polystyrene foam (styrofoam) shall be sold or used by any person or entity that is required to obtain a City [license] **permit** by the provisions of Bend Code 7.200 - 7.924 in the conduct of their business or in any of their [licensed] **permitted** activities.

Section 2. Section 7.280 through 7.282 is amended by changing that section to read:

OUTDOOR CAFES

7.280 Issuance of **Revocable** Permit

(1) The City Manager, or the Manager's designee, may issue a **revocable** permit for an outdoor cafe allowing the service of food or beverages within a public right of way provided the following conditions are met:

(a) The permit applicant pays an application fee established by resolution pursuant to the Bend Cost Recovery Code.
(b) The permit applicant assumes all risks associated with the use of the right of way;
(c) The permit applicant obtains liability insurance in a form and amount determined by the City Manager;

(d) The permit applicant submits an application containing the information required by the City Manager;
(e) The permit applicant lawfully operates a restaurant adjacent to the right of way for which the applicant seeks a permit;
(f) The owner of the restaurant property consents to issuance of the permit;
(g) The permit applicant demonstrates that the use of the right of way will not interfere with existing utilities, pedestrian use of the right of way nor pose a hazard to vehicular traffic. The permit applicant must demonstrate that, at a minimum, there will be a pedestrian passageway through the right of way of at least five (5) feet in width, and that the use of the right of way will be in compliance with vision clearance provisions of the City of Bend's zoning ordinance;
(h) The permit applicant obtains all other necessary state and local permits;
(i) If the applicant seeks to use the right of way in front of properties contiguous to the restaurant, the applicant demonstrates that a restaurant is a permitted use for the contiguous property and the owner of the contiguous property consents to the issuance of the permit;
(j) The permit applicant demonstrates that the use of the right of way will comply with all ordinances and codes of the City including but not limited to the structural safety, sanitation and fire codes;
(k) The permit applicant demonstrates that seating in the right of way will be provided for no more than twenty (20) persons or, if seating is provided for a greater number that off-street parking as required by applicable law is provided in a ratio of no less than one parking space for each four (4) seats over and above twenty (20);
(l) The permit applicant demonstrates that the proposed use of the right of way is not inconsistent with the use for which the right of way was dedicated to the City.

(2) If the permit applicant wishes to undertake construction in the right of way in conjunction with the operation of an outdoor cafe, the permit applicant shall obtain a revocable permit subject to terms and conditions set by the City.

7.282 Duration, Transfer and Revocation of Permit.

(1) A **revocable** permit issued pursuant to Bend Code 7.280 shall be of the duration specified **by the City Manager.** [in Bend Code 7.206.]
(2) A permit issued pursuant to Bend Code 7.280 is not transferable.
(3) A permit issued pursuant to Bend Code 7.280 may be revoked in the following circumstances:
  (a) If the operator of the outdoor cafe violates city, state or federal law;
  (b) If the conditions specified in Bend Code 7.280 are no longer being met;
  (c) If the operation of the outdoor cafe present a danger to persons or property;
  (d) If the terms and conditions of the [license] **revocable permit** issued pursuant to Bend Code 7.280 are not complied with.
(4) A permit issued pursuant to Bend Code 7.280 may be temporarily suspended if the public interest requires use of the right of way for a public event, construction, repair, or any other purpose.

Section 3. Section 7.400 through 7.406, Aerial Activities, is amended by changing that section to read:

AERIAL **EVENTS** [ACTIVITIES]

7.400 **Permit**[License] Required. No person shall organize, promote or participate in an aerial event unless that event is [licensed] **permitted** by the City of Bend. [For the purposes of sections 7.402 to 7.406,] **T**[t]he term "aerial event" shall include parachuting, hang gliding or operating a hot air balloon within the city limits of Bend. **Aerial events events are required to obtain a Special Events Permit in accordance with Bend Code 7.350 through 7.398.**

[7.402 Application. At least 10 days before an aerial event, an application for a license shall be filed in accordance with the provisions of section 7.212. The applicant shall file the application with the Chief of Police and shall include the following information:

(1) The time and location where the activity will occur.
(2) The number of people who will be participating in the event.
(3) Plans for public safety at the event if said information is requested by the Chief of Police.]

[7.404 License Fee. The fee for an aerial event is set by resolution pursuant to Bend Code 1.800 - 1.806.]

[7.406 License Denial. A license for an aerial event may be denied in accordance with the provisions of section 7.218 or if the City Manager reasonably finds that said event would present a danger to the safety of the general public. A denial may be appealed in accordance with section 7.228.]

Section 4. Sections 7.450 though 7.460 relating to Bingo licenses are hereby repealed.

Section 5. Sections 7.500 through 7.522 are hereby amended to read:

STREET VENDORS

[7.500 Definitions.

(1) "Street Vendor" means any person upon a public sidewalk or other public way or place carrying, conveying, or transporting, [food, beverages, flowers or balloons], offering and exposing [same] goods for sale from a mobile type device or as a pedestrian.
(2) "Mobile type device" shall include carts [as provided in section 7.516], motorized vehicles which comply with all applicable motor vehicle regulations and any other device used by a pedestrian vendor or any other vendor which is capable of being immediately moved and which is otherwise permitted by applicable ordinance or statute.]

7.50[2]**0** Sale of Goods on Public Property. Except as provided for in sections 7.50[4]**2** to 7.5[22]**04**, no person shall sell or offer to sell food, beverages, wares or goods from a public sidewalk, street or other public property **without first obtaining a revocable permit from the City Manager**.

7.502 Application. Permitee must make an application to the City Manager and agree to the conditions of the revocable permit which shall include:

(a) Insurance The applicant shall first obtain and file with the City Recorder a certificate showing a public liability insurance protecting the licensee and city from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage consistent with the limits of tort liability for the city. Such insurance shall be primary and shall name as additional insureds the City of Bend, its officers and employes, and shall further provide that the policy shall not terminate or be cancelled prior to the completion of the contract without 30 days written notice to the City Recorder of the City of Bend.

(b) Compliance with all other applicable laws, rules and regulations.
(c) Any and all such terms and conditions as deemed appropriate by the City Manager as they may relate to public protection and safety.

7.504 Terms and Conditions. Permit shall become immediately revocable by failure to abide by any of the conditions set forth in the permit.

[7.504 License. Applications for a Street Vendor License shall be filed with the City Recorder on a form provided by the city. Proof that the provisions of this Code have been met shall be filed before issuance of said license.]

[7.505 Insurance. Before a street vendor's license is issued to any person, the applicant therefor shall first obtain and file with the City Recorder a certificate showing a public liability insurance protecting the licensee and city from all claims for damage to property or bodily injury, including death, which may arise from operations under the license or in connection therewith. Such insurance shall provide coverage consistent with the limits of tort liability for the city. Such insurance shall be primary and shall name as additional insureds the City of Bend, its officers and employes, and shall further provide that the policy shall not terminate or be cancelled prior to the completion of the contract without 30 days written notice to the City Recorder of the City of Bend.]

[7.506 Inspection. Prior to issuance of a street vendor's license, the building official and the fire marshal shall inspect each mobile device to be used. The building official shall certify that the device is structurally and mechanically sound, the design will not create a nuisance or hazard to the public, and the size of the cart meets the requirements of section 7.516. Each cart shall be constructed with wheels and brakes of good working order. The fire marshal shall certify that any cooking or heating apparatus is in conformance with the provisions of the City Fire Code.]

[7.508 State and County License Required. No persons shall be issued a street vendor's license unless he submits with his application, documentation that he has obtained all health and sanitary licenses from the state and county].

[7.510 Use of Sidewalks.

(1) No street vendor licensed under this section shall have an exclusive right to any specific location on any public sidewalk, nor shall be permitted a stationary location, nor shall he be allowed to occupy any area within ten feet from the inside crosswalk mark at the corner of each block, ten feet from the entrance to an alleyway, eight feet from the entrance to any building doorway, or within seventy-five feet of a competing business (e.g. restaurant, flower shop) that fronts on the same sidewalk. The cart must occupy space adjacent and abutting the curb.

(2) Street vendors shall provide a trash receptacle and pick up any paper, cardboard, wood, or plastic containers, wrappers, or any litter in any form which is deposited by any person on the sidewalk or street within 25 feet of the mobile device at any time it is in a stationary position and the street vendor is conducting business. Street vendors shall be responsible for the disposal of all said trash.

(3) No street vendor shall make any loud or unreasonable noise of any kind by vocalizing or otherwise for the purpose or advertising or attracting attention to his wares.

(4) No permitted mobile device shall be left unattended on a sidewalk, street or other public place between 10 p.m. and 6 a.m., and at no time shall any mobile type device be left unattended while in the CB zone of the City.

(5) No mobile type device of a greater size than proscribed by section 7.516 shall be permitted to operate upon the sidewalks of Bend without the permission of the City Manager or his designee, and nothing in this section shall permit motorized vehicles to operate on the streets, sidewalks or public places of the city where otherwise restricted by ordinance or statute. No street vendor shall operate from a motor vehicle in the CB zone of the city.

(6) No street vendor may operate in a residential area of the City between the hours of 8 p.m. and 8 a.m. Street vendors in residential zones shall be subject to section 7.550 of this Code and all applicable parking, noise and vehicle regulations.]

[7.512 Separate License for Each Mobile Type Device or Pedestrian Vendor.

(1) A separate vendor's license and fee shall be required of the vendor for each mobile device used by the vendor to carry on his business, and for each pedestrian vendor.

(2) The annual license fee for each mobile type device or pedestrian vendor shall be set by resolution pursuant to Bend Code 1.800 1.806.

(3) Before issuing a license, the City Manager must find that the mobile type device will not detract from the appearance of the City and that it will be harmonious with the area in which it will do business.]

[7.514 Sanitary Standards. All utensils and equipment used by a licensed street vendor shall be maintained in a clean and sanitary condition and shall conform to all standards prescribed by state and county law and regulations promulgated pursuant thereto.]

[7.516 Cart Size. If located on a sidewalk, the size of a street vendor's cart shall not be greater than three feet six inches in width and six feet in length. All carts shall be self-contained and the street vendor shall not utilize any appliances, containers, ice chests or other devices that occupy space outside of the body of the cart. No street vendor shall use more than two folding chairs or stools in the operation of any cart.]

[7.518 Temporary Suspension. In addition to the provisions of section 7.224, the City Manager may suspend a street vendor's license when there is reasonable grounds to believe that the street vendor is violating any of the provisions of 7.500 to 7.522 or failing to maintain the mobile type device's appearance or general working condition. A street vendor so suspended may appeal the suspension pursuant to section 7.228.]

[7.520 Prohibited Solicitation.

(1) It is unlawful for any person to solicit or demand any pecuniary benefit from any street vendor in return for the street vendor locating a mobile device on the sidewalk in front of any particular business.
(2) "Pecuniary benefit" means money, property, or commercial interest.]

[7.522 Exceptions. The street vendor provisions shall not apply to newspaper stands, sidewalk sales authorized by city permits or sales conducted by a public agency. Permits for sidewalk sales by businesses adjoining the sidewalk may be approved by the City Manager subject to the provisions of section 7.228.]

Section 6. Sections 7.550 through 7.554 relating to Door to Door Solicitation are hereby repealed.

Section 7. Sections 7.560 through 7.580 relating to Itinerant Merchant licenses are hereby repealed.

Section 8. Sections 7.584 through 7.590 are hereby amended to read:

DRUG PARAPHERNALIA

7.584 **Permit** [License] Required. It shall be unlawful for any person or persons as principal, clerk, agent or servant to sell any items, effect, paraphernalia, accessory or thing which is designed or marketed for use with illegal cannabis or drugs, as defined by ORS 163.575 and ORS Chapter 475, without obtaining a **permit from the Chief of Police** [license therefor]. Provided, however, the definitions in ORS 163.575 shall not include, for the purposes of this section, pipes commonly used for smoking tobacco, cigarette rolling papers or cigarette machines. Such **permits** [licenses] shall be in addition to any or all other **permits** [licenses] held by applicant.

7.586 Application and Fee. Application to sell any item, effect, paraphernalia, or drugs shall, in addition to all the **permit** [license] requirements established in this Code be accompanied by affidavits by the applicant and each and every employee authorized to sell such items that such person has never been convicted of a drug-related offense. Licensees shall pay the annual license fee set by resolution pursuant to Bend Code 1.800 - 1.806.

7.588 Minors. It shall be unlawful to sell or give or display items as described herein in any form to any person under eighteen years of age.

7.590 Records. Every **permitee** [licensee] must keep a record of every item, effect, paraphernalia, accessory or thing which is designed or marketed for use with illegal cannabis or drugs which is sold and this record shall be open to the inspection of any police officer at any time

during the hours of business. Such record shall contain the name and address of the purchaser, the name and quantity of the product, the date and time of the sale, and the **permitee** [licensee] or agent of the **permitee's** [licensee's] signature, such records shall be retained for not less than two (2) years.

Section 9. Section 7.592 relating to Garage Sale licenses is hereby repealed.

Section 10. Section 7.594 relating to Tree Topping licenses is hereby repealed.

Section 11. Section 7.596 relating to Blasting licenses is hereby repealed.

Section 12. Section 7.598 relating to Auctioneer licenses is hereby repealed.

Section 13. Sections 7.600 through 7.622 relating to Merchant Patrol/Private Detective licenses are hereby repealed.

Section 14. Sections 7.626 through 7.660 relating to Ambulance licenses are hereby repealed.

Section 15. Sections 7.670 through 7.694 are amended to read:

TAXICABS

[7.670 Title. Sections 7.670 to 7.696 shall be referred to and may be cited as the Taxicab Act.]

7.672 Definition. For the purposes of sections 7.670 to 7.696, "taxicab" means a motor vehicle including limousines, except motorbuses, used for transporting passengers for hire. Taxicabs used for hire shall be governed by and comply with the provisions of this [Act] **Code**.

7.674 **Permit** [License] Required. No person shall [engage in the business of operating] **operate a** taxicab[s] without a **permit** [license] issued by the **Chief of Police** [City Manager].

[7.676 Application.

(1) A person desiring a license for the business of operating taxicabs shall make a written application to the City pursuant to section 7.210. With the application, the applicant shall present the certificate of title or the registration for the motor vehicle or vehicles.The applicant shall show by affidavit that he/she is the registered or legal owner of the motor vehicle or vehicles, and that, in the event of a change of ownership, possession or control of the motor vehicles or business, or in the event that the applicant rents, sublets, leases or otherwise changes the management operation or control of the motor vehicles or business, the applicant shall immediately notify the Manager in writing.

(2) The application also shall include the following:
   (a) The factory numbers of all vehicles.
   (b) The state license numbers of all vehicles.
   (c) The trade names of all vehicles.
   (d) A description of the streets where and the hours of the day during which the owner desires to stand the taxicabs.
   (e) The name of the owner, officers of the company or other person of authority having the supervision and control of the business and vehicles for which application is made.]

7.678 Fees. A person [engaged in the business of] operating **a** taxicab[s] shall pay [an annual] **a** fee set by resolution pursuant to Bend Code 1.800 - 1.806.

[7.680 Liability Insurance.

(1) The applicant for a license to operate taxicabs shall file with the application an insurance policy issued by an insurance company authorized to transact business in the state in the amount consistent with the tort liability limits of the city.

(2) The insurance shall be issued and applied to each taxicab for which application is being made. A license to operate the taxicabs shall terminate on the cancellation of the insurance, and no permit shall be granted or be effective unless the automobile for which the license is required has been fully covered with insurance as specified in this section.]

[7.682 Marking Vehicles. Each taxicab shall be marked with letters stating the business or trade name in letters of not less than two and one-half inches in height and not less than one-half inch in width.]

[7.684 Rates and Meters.

(1) Except as provided for in subsection (2), all taxicabs shall have meters and/or uniform rates throughout the city on or before September 1, 1983. A copy of the rates shall be forwarded to the require City Manager's office.
(2) Businesses providing limousine service will not be red to have meters, but shall file with the City Manager, a copy of their rates.]

[7.686 Drivers' Permits.

(1) No person shall drive or operate a taxicab without a permit issued by the Manager as provided in sections 7.688 to 7.692.]

7.688 Application.

(1) A taxi cab driver shall, before beginning his/her duties, apply to the Chief of Police for a permit and shall furnish all information that may be required.
(2) A permit may be denied if the applicant has been convicted of a felony or a misdemeanor involving moral turpitude.
(3) A permit may be denied if the applicant's driving record clearly demonstrates he/she is not qualified to transport the public with sufficient safety.

7.690 Identification Card.

(1) Upon approval of a taxicab driver's permit and payment of **the fee pursuant to Bend Code 1.800 through 1.806** [$10.00], the **Chief of Police** [Manager] shall furnish the taxicab driver with [an] **a photo** identification card.
[(2) The identification card shall have:
(a) A front view picture of the applicant.
(b) The name, weight, height, age, color of hair, color of eyes of the applicant.
(c) The name of the employer.
(d) The signature of the applicant in his/her own handwriting.]
(3) The identification card shall not be transferable and shall remain posted in a conspicuous place in the taxicab operated by the driver.

7.692 Applicants for Drivers' Permits to Furnish Fingerprints. A person applying for a taxicab driver's permit under this Act shall furnish to the Police Department a complete set of fingerprints on each hand.

7.694 Temporary Suspension. In addition to the provisions of section 7.222, the Chief of Police may suspend a permit issued to a taxicab driver when there is reasonable grounds to believe that the driver is incompetent or an improper person to operate a taxicab. A driver having his/her permit suspended by the Chief of Police may appeal the suspension within five days from the date of suspension to the [Commission] **Council** pursuant to section 7.224.

Section 16. Sections 7.700 through 7.714 relating to Bus licenses are hereby repealed.

Section 17. Sections 7.750 through 7.756 relating to Massage Technician licenses are hereby repealed.

Section 18. Sections 7.800 through 7.808 are hereby amended to read:

PAWNBROKERS

7.800 Definition. For the purposes of sections 7.800 to 7.806, "pawnbroker" shall be defined as provided by ORS 726.010.

7.802 **Permit** [License] Required; Fee. No person shall engage in business as a pawnbroker without obtaining a pawnbroker's [license] **permit** from the [Manager] **Chief of Police**. The annual fee for a pawnbroker's [license] **permit** shall be the fee set by resolution pursuant to Bend Code 1.800 - 1.806.

7.804 State License Required. No person shall be issued a pawnbroker's **permit** [license] unless satisfactory proof of a valid state pawnbroker's license, issued pursuant to ORS Chapter 726, accompanies the application. Failure to maintain a valid state license shall be grounds for revocation of the City license pursuant to section 7.220.

7.806 Records of Articles Received.

(1) A pawnbroker shall keep a record, legibly handwritten in ink or typewritten, which shall contain:
   (a) An accurate and detailed description of all goods, articles or things purchased, pawned, pledged, or received.
   (b) The amount of money pledged, advanced or paid.
   (c) The day of pawning, pledging or receiving goods, articles, or things.
   (d) The name and residence, with the street and number, if any, date of birth and type of identification of the person pawning, pledging, selling or delivering the goods, articles, or things.

(2) An entry made in the record book shall not be obliterated, erased or defaced. The record, as well as the articles pledged, pawned, sold or received shall be open at all reasonable times to inspection by the City Police, the State Police, the Sheriff's Office and the various other law enforcement officers of the county.

(3) In addition to the record book and any other records required, a pawnbroker shall, at the time of taking, receiving or purchasing any article describe the article on a form approved by the Police Department as the Chief of Police may direct. An accurate and sufficiently detailed description of an article shall be required by the form. The pawnbroker shall fill in the blank spaces on the form with all data requested by the form

(4) A pawnbroker shall mail or deliver the forms to the Chief of Police every business day.

(5) The City police officers may go upon and inspect the premises at all reasonable times. If any stolen property is found, the police may remove the property and return it to its rightful owner.

7.808 Purchase from Minors. No pawnbroker may take, receive or purchase any articles without the written consent of a minor's parent or legal guardian.

Section 19. Sections 7.810 through 7.824 are hereby amended to read:

ANTIQUE, SECONDHAND AND JUNK DEALERS

7.810 Definitions. As used in Bend Code 7.810 to 7.824, unless the context requires otherwise:

(1) "Business Days" are Monday, Tuesday, Wednesday, Thursday and Friday, excluding all legal holidays.

(2) "Daily ledger" is a pre-numbered, permanently bound book that has all of the pages in the book that were originally bound into the book in which all entries are kept in ink and in chronological and numerical order, which is on a form approved by the Chief of Police and supplied to the dealer by the Bend Police Department.

(3) "Dealer" shall mean persons who are engaged in the business of selling, purchasing, trading, bartering or exchanging antique or secondhand goods for private gain or who have in their possession any junk such as old machinery, used machinery or appliance parts, metal, glass, lumber or wood and discarded material acquired for the purpose of resale.

(4) "Purchase" means, in addition to its commonly accepted meaning,acquisition of personal property for the purpose of resale on consignment and acquisition of personal property by trade, barter or exchange.

(5) "Secondhand Goods" means, in addition to its commonly accepted meaning, all personal property which has been used or possessed previously by another and includes, but is not limited to, previously owned precious metals, jewelry, coins which are purchased or sold by a dealer for other than their face value, stamps, firearms, appliances, hand and power tools, binoculars, cameras, watches, televisions, radios, phonographs, stereos, recording devices, antiques, furniture, calculators, electronic devices, bicycles, appliances, tools, sporting goods, audio and video recordings and similar items.

7.811 **Permit** [License] Required.

(1) No person shall engage in business as a dealer without first obtaining a **permit** [license] from the **Chief of Police**. [City Manager.] Agents and employees of a dealer who engage in the purchase of secondhand goods, must also obtain a **permit** [license] from the **Chief of Police** [City Manager] and are subject to all requirements of Bend Code 7.810 - 7.824.

(2) The [initial annual license] **permit** fee [for a dealer] shall be set by resolution pursuant to Bend Code 1.800 - 1.806.

[(3) An agent or employee of a licensed dealer who engages in the purchase of secondhand goods shall obtain a license for a fee set by resolution pursuant to Bend Code 1.800 - 1.806.]

7.812 Exemptions. The provisions of Bend Code 7.810 to 7.822 shall not apply to:

(1) any bona fide secondhand automobile establishment used or conducted solely for the sale of used vehicles;

(2) any bona fide recycling center;

(3) a person or business that only sells used merchandise that was acquired as a trade-in and as partial consideration for the purchase of similar new merchandise from the person or business;

(4) an automobile wrecking yard used exclusively for the wrecking or sale of used vehicles;

[(5) any person holding garage sales with a license issued pursuant to the authority of Bend Code 7.592;]

(6) any person offering antique, secondhand, or junk goods for sale at a flea market, trade show or similar organized sales event three or fewer times annually and not to exceed five days per event;

(7) an individual or business that purchases or sells used books and that does not engage in the purchase or sale of secondhand goods that must be recorded in a daily ledger pursuant to Bend Code 7.816 (1);

(8) an individual or business that purchases or sells used clothing and that does not engage in the purchase or sale of secondhand goods that must be recorded in a daily ledger pursuant to Bend Code 7.816 (1);

(9) an individual or business whose only secondhand business transactions are the buying and selling of gold or silver bullion bars of 0.995 fine or better.

7.814 **Permit** [License] Application and Review.

(1) Application for a secondhand business license shall be made pursuant to section 7.200 - .240. [and shall include:
   (a) The full name, date of birth, addresses of residences for five years prior to date of application and dates that the applicant resided at each address and names and addresses of all business locations and all of applicant's employers for five years prior to date of application.
   (b) A specific description of the location of all places of business of the applicant.
   (c) The names, addresses and dates of birth of any employees or agents of the employer.]

(2) All applications for a dealer's **permit** [license] are to be investigated by the Bend Police Department. The Police Chief shall [recommend to the City Manager whether to] approve or deny the application.

(3) All approved applicants shall be issued a photo identification card by the Bend Police Department. New applicants for a second-hand business license may be fingerprinted by the Bend Police Department to ascertain the identity of the applicant.

7.815 Denial and Revocation of **Permit** [License]. A **permit** [license] shall be issued only upon the signed, written application of the dealer, according to the procedures set forth in Bend Code 7.200 - 7.240. In addition to the grounds listed in Bend Code 7.218, grounds for the denial or revocation of a dealer's **permit** [license] include:

(1) A knowing false statement in the **permit** [license] application.
(2) Conviction of a crime that is prohibited as a felony in the State of Oregon or an offense in the nature of theft, deception or moral turpitude.
(3) Failure of the dealer to have obtained all necessary zoning, planning, building and sanitation permits for the dealer's place of business.
(4) Conducting business without a **permit** [business license] and allowing people who have not obtained a **permit** [business license] under this section to work as the dealer's agents or employees.

The [City Manager may, with the concurrence of the] Chief of Police[,] **may** issue a secondhand business [license] **permit** to an applicant who does not comply with one or more of the above-listed factors or one or more of the factors listed in Bend Code 7.218, if the [City Manager and] Police Chief believes that the behavior evidenced by such factor is not likely to recur, or is remote in time, or occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of this Code.

7.816 Records Required.

(1) Every dealer conducting an establishment and all itinerant dealers who conduct business in the City of Bend, shall keep a daily ledger, written in ink, in the English language, of all purchases made by dealers or their agents of the following secondhand goods: jewelry, property made of precious metal excluding gold and silver bullion bars of 0.995 fine or better, firearms, appliances, sporting goods, binoculars, cameras, watches, televisions, radios, recording devices, calculators, electronic devices, hand and power tools, stereos, phonographs, audio and video recordings, bicycles, machinery and machinery parts. Said ledger must be completely filled out, including an accurate and sufficiently detailed description of the secondhand goods purchased; the name, date of birth, sex, race and address of the person from whom purchased or acquired; the day and hour of the purchase and price paid; all serial numbers of secondhand goods purchased; and the number of the seller's identification card required by Bend Code 7.816.(2).

When the dealer purchases secondhand goods from a corporate entity, the sales agent who sells the goods to the dealer shall be considered the person from whom the goods were purchased or acquired for purposes of this section. For secondhand purchases from a corporation, the dealer shall also list the name and address of the corporation.

(2) When a dealer purchases secondhand goods in the City of Bend, the dealer shall require the seller to display one of the following forms of identification:
- (a) a valid drivers license;
- (b) a valid state identification card;
- (c) a valid military identification card;
- (d) a valid passport, visa or alien registration card with photo.
- (e) a valid federal firearms license, if the dealer is purchasing secondhand firearms.

(3) Bend Code 7.816 (2) shall not apply to the following secondhand purchases:
- (a) purchases made at an auction;
- (b) purchases from a dealer who is [licensed] **permitted** by the City of Bend or Deschutes County;
- (c) purchases which are shipped to the dealer from a dealer whose primary business location is outside of Deschutes County.
- (d) purchases from governmental entities.

(4) The daily ledger shall be maintained by the dealer for a period of two years from the date of the latest transaction recorded therein.

(5) The daily ledger shall be open for inspection by any police officer at all reasonable times.

(6) No entry in a daily ledger may be changed, erased,obliterated or defaced. No original entry pages of the daily ledger shall be removed, detached or separated from the ledger. A copy of such record shall be mailed or delivered to the Chief of Police weekly.

7.818 Regulation of Premises.

(1) The premises and structures of a junk dealer or secondhand dealer shall be kept in a sanitary manner.

(2) The City police officers may go upon and inspect the premises at all reasonable times. If any stolen property is found, the police may remove the property and return it to the rightful owner.

(3) If there is any outside storage or display of any material, the premises upon which the business of a junk dealer or secondhand dealer is carried on shall be enclosed by a proper fence or other structure not less than six feet high above the street level, constructed so that no dust or other material may pass through, and kept properly painted and in good repair.

(4) No material or article shall be piled so as to protrude above the fence.

(5) No street, sidewalk or portion thereof may be used at any time to store, pile or maintain any junk material or secondhand material, except as necessary in the actual moving of such material.

7.820 Purchases from Minors. No junk dealer or second hand dealer may purchase or acquire from a person under 18 years of age any junk, secondhand merchandise or other article, except old rags or paper, without the written consent of the parents or guardian of such person.

7.822 Retention and Return of Articles.

(1) All secondhand goods that must be recorded in the dealer's ledger as required by Bend Code 7.816 (1), shall be retained for a period of five business days from the date that the Police Department copy of the ledger entry for the item purchased by the dealer or ealer's agent is received by the Bend Police Department. If the Police Department copy of the ledger entry is mailed to the Bend Police Department from Bend, Oregon, the five business day period will be calculated from the date the envelope containing the ledger forms is postmarked. The provisions of this subsection shall not apply to items that a dealer purchases from other licensed dealers who have complied with this subsection.

(2) Whenever any dealer is notified by a police officer to retain any article purchased by such dealer so that the police can ascertain whether the article is stolen, the dealer upon receipt of the notice, shall retain, in his place of business, such articles for 15 days after receipt of the notice.

(3) Whenever secondhand property is identified by a city, county, state or federal police agency as stolen property, said dealer shall promptly turn the property over to any member of the police agency upon request. If requested by the dealer, the police officer shall give a receipt for all items received from the second-hand dealer and said receipt shall include the police agency's name, address and case number.

7.824 Burden of Proof. If a person is cited for violating Bend Code 7.811 to 7.822 and wishes to claim an exemption under Bend Code 7.812, that person shall have the burden of proving that he or she is covered by said exemptions.

Section 20. Sections 7.900 through 7.924 relating to Alarm System licenses are hereby repealed.

Read for the first time the 19th day of March, 1997.

Read for the second time the 2nd day of April, 1997.

Placed upon its passage the 2nd day of April, 1997.

YES: NO:

Authenticated by the Mayor the 2nd day of April, 1997.

Mayor

ATTEST:

City Recorder

ORDINANCE NO. NS-1676

AN ORDINANCE ADOPTING THE *Oregon Uniform Fire Code* PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE, HAZARDOUS MATERIALS OR EXPLOSION.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. ADOPTION OF OREGON UNIFORM FIRE CODE

There is hereby adopted by the City of Bend for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code known as the *Oregon Uniform Fire Code*, including Appendix Chapters I-C, I-D, II-F, III-A, III-C, IV-A, V-A, VI-A, VI-B, VI-D and VI-F and Appendix Standards as adopted by the State of Oregon within Article 90 of the *1996 Oregon Edition*, being particularly the 1996 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by section 7 of this ordinance, three (3) copies of which have been and are now filed in the office of fire prevention for the City of Bend Fire Department.

Section 2. DEFINITIONS.

2.1 Wherever the word "jurisdiction" is used in the *Oregon Uniform Fire Code*, it is City of Bend, Oregon.

2.2 Where the party responsible for the enforcement of the *Oregon Uniform Fire Code* is given the title of "fire marshal", add the following definition: FIRE MARSHAL is in charge of the division of fire prevention.

Section 3. ESTABLISHMENT OF LIMITS OF DISTRICTS WHICH STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS IS PROHIBITED.

The limits referred to in Sections 7902.2.2.1 and 7904.2.5.4.2 of the *Oregon Uniform Fire Code* in which the storage of flammable or combustible liquids is restricted are hereby established as follows: Within the corporate limits of the City of Bend. Exception #1 - Light Industrial and General Industrial Zones in approved tanks that are not in heavily populated or congested areas. Exception #2 - Combustible liquids in approved tanks not greater than 550 gallons and used solely for heating. Exception #3 - Flammable and Combustible liquids in approved tanks not greater than 550 gallons solely used for emergency equipment. Exception #4 - Flammable and Combustible liquids in approved protected tanks not exceeding 1,000 gallons in other commercial areas not heavily populated or congested.

Section 4. ESTABLISHMENTS OF LIMITS IN WHICH STORAGE OF LIQUEFIED PETROLEUM GASES IS PROHIBITED.

The limits referred to in Section 8204.2 of the *Oregon Uniform Fire Code*, in which storage of liquefied petroleum gas is restricted, are hereby established as follows: Within the corporate limits of the City of Bend. Exception #1 - General Industrial Zones not heavily populated or congested.

Section 5. ESTABLISHMENTS OF LIMITS OF DISTRICTS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS IS TO BE PROHIBITED.

The limits referred to in Section 7701.7.2 of the *Oregon Uniform Fire Code*, in which storage of explosives and blasting agents is prohibited, are hereby established as follows: The storage of Class "A" explosives and blasting agents is prohibited within the corporate limits of the City of Bend. Exception #1 - Approved amounts of Class "B" and Class "C"explosives and blasting agents.

Section 6. ESTABLISHMENTS OF LIMITS OF DISTRICTS IN WHICH THE STORAGE OF COMPRESSED NATURAL GAS IS TO BE PROHIBITED.

The limits referred to in Section 5204.5.2 of the *Oregon Uniform Fire Code* in which the storage of compressed natural gas storage is prohibited, are hereby established as follows: Within the corporate limits of the City of Bend. Exception #1 - General Industrial Zones not heavily populated or congested.

Section 7. AMENDMENTS TO THE *OREGON UNIFORM FIRE CODE.*

The *Oregon Uniform Fire Code* is amended and changed in the following respects:

(1) Amend the Code throughout, change the title "bureau" to "division".

(2) Amend the Code throughout, change the title "chief of the division of fire prevention" to "fire marshal in charge of the division of fire prevention".

Section 8. APPEALS.

Whenever the chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the regional appeal advisory board established under ORS 476.113 to 476.115 in addition to following the procedures as described in ORS 479.180.

Section 9. NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

The City of Bend fire chief, the fire marshal and a representative from the State Fire Marshal's Office shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in the *Oregon Uniform Fire Code*. The fire marshal in charge of the division of fire prevention shall post such a list in a conspicuous place at the division of fire prevention and distribute copies thereof to interested persons.

Section 10. PENALTIES.

10.1 Any person who violates any of the provisions of the *Oregon Uniform Fire Code* as adopted and amended herein or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the regional appeals advisory board or by a court of competent jurisdiction, within the required time, shall severally for each and every violation and noncompliance, respectively, be guilty of a Class "A" infraction, punishable by a fine of not more than $500.00. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

10.2 The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 11. REPEAL OF CONFLICTING ORDINANCES.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the *Oregon Uniform Fire Code* as adopted and amended herein are hereby repealed.

Section 12. VALIDITY.

The City of Bend hereby declares that should any section, paragraph, sentence or word of this ordinance or of the *Oregon Uniform Fire Code* as adopted and amended herein be declared for any reason to be invalid, it is the intent of the City councillors that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

Read for the first time the 16th day of April, 1997.

Read for the second time the 7th day of May, 1997.

Placed upon its passage the 7th day of May, 1997.

YES: 6 NO: 0

Authenticated by the Mayor the 7th day of May, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1677

AN ORDINANCE CONTINUING THE CURRENT OPEN BURNING REGULATIONS; AND ADOPTING THE NEW OREGON UNIFORM FIRE CODE REGULATIONS FOR FIREWORKS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Sections 5.295 Open Burning is amended to read:

5.295 Open Burning

(1) No person shall burn waste or other material except in accordance with all applicable regulations.

(2) **Outdoor burning is not allowed within the City of Bend other than 20 days total in April through May and 20 days total in November, as determined by the Fire Chief. Recreational Fires, Warming Fires and Barbecue Pits are permitted throughout the year when conditions are safe.**

(3) A violation of this section is a Class B Civil Infraction.

Section 2. Bend Code Section 5.305 (1) is amended to read:

5.305 Fireworks

(1) Article 78 of the **OREGON UNIFORM FIRE CODE, 1996 EDITION** [Uniform Fire Code (1979 edition)] and ORS 480.110, 480.120, 480.130, 480.140(1), 480.150 and 480.170 are hereby incorporated by reference and made part of the Bend Code, and shall apply to the use of fireworks within the City.

(2) No fireworks shall be used in the City of Bend except as authorized by the City.

(3) A violation of this section is a Class C Civil Infraction.

Read for the first time the 16th day of April, 1997.

Read for the second time the 7th day of May, 1997.

Placed upon its passage the 7th day of May, 1997.

YES: 7 NO: 0

Authenticated by the Mayor the 7th day of May, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1678

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, TO ADD VETERINARY CLINICS AS A PERMITTED USE IN THE GENERAL COMMERCIAL (CG) ZONE.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 17 (2) is hereby amended to read:

(o) Veterinary clinics conducted within an enclosed building.

Read for the first time the 16th day of April, 1997.

Read for the second time the 7th day of May, 1997.

Placed upon its passage the 7th day of May, 1997.

YES: 7 NO: 0

Authenticated by the Mayor the 7th day of May, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell by Cheryl Stanard, Recording Clerk
Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1679

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO CC, CONVENIENCE COMMERCIAL,

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated April 11, 1997.

Section 2. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from Urban Standard Density Residential (RS) to Convenience Commercial (CC):

PARCEL A

All that property being a portion of the southwest quarter of Section 20, Township 17 South, Range 12 East, Willamette Meridian, in the City of Bend; Deschutes County, Oregon, described as follows:

Beginning at a point on the northerly right-of-way of a proposed road from which the southwest corner of said Section 20 bears South 27° 17' 04" West, 1044.02 feet; thence North 73° 20' 35" West, 123.37 feet; thence North 22° 56' 23" West 109.51 feet; thence North 30° 16' 02" West, 77.78 feet; thence North 70° 37' 39" East, 378.87 feet to the westerly right-of-way of the proposed extension of Mt. Washington Drive (said westerly right-of-way lies 80.00 feet westerly and parallel with the west line of that property deeded to River's Edge Partnership in Book 238 at Page 2315 of the Deschutes County Official Records); thence along said westerly right-of-way South 04° 25' 10" East, 184.15 feet to the beginning of a tangent 729.50 foot radius curve to the left; thence along said curve through a central angle of 01° 42' 30", an arc length of 21.75 feet (the chord of which bears South 05° 16' 25" East, 21.75 feet); thence leaving said westerly right-of-way and along said northerly right-of-way of a proposed road South 79° 09' 15" West, 50.37 feet to the beginning of a tangent 160.00 foot radius curve to the left; thence along said curve through a central angle of 63° 38' 00", an arc length of 177.70 feet (the chord of which bears South 47° 20' 16" West, 168.70 feet) to the Point of Beginning.

Contains 1.62 acres, more or less

PARCEL B

All that property being a portion of the southwest quarter of Section 20, Township 17 South, Range 12 East, Willamette Meridian; in the City of Bend, Deschutes County, Oregon, described as follows:

Beginning at a point on the northerly right-of-way of Summit Drive from which the southwest corner of Section 20 bears South 66° 44' 31" West, 947.62 feet; thence along said right-of-way, North 88° 59' 09" West, 58.69 feet to the beginning of a tangent 340.00 foot radius curve to the left; thence along said curve through a central angle of 21° 35' 52", an arc length of 128.16 feet (the chord of which bears South 80° 12' 55" West, 127.41 feet) to the easterly right-of-way of a proposed road and the beginning of a non-tangent 240.00 foot radius curve to the right; thence leaving said northerly right-of-way of Summit Drive, and along said easterly right-of-way along said curve through a central angle of 17° 28' 22", an arc length of 73.19 feet (the chord of which bears North 16° 15' 01" West, 72.91 feet); thence North 07° 30' 49" West, 165.16 feet to the beginning of a tangent 270.00 foot radius curve to the left; thence along said curve through a central angle of 16° 40' 03", an arc length of 78.54 feet (the chord of which bears North 15° 50' 51" East, 78.27 feet); thence North 24° 10' 52" West, 198.93 feet to the beginning of a tangent 100.00 foot radius curve to the right; thence along said curve through a central angle of 103° 20' 08", an arc length of 180.35 feet (the chord of

which bears North 27° 29' 12" East, 156.89 feet); thence North 79° 09' 15" East, 47.90 feet to the westerly right-of-way of the proposed extension of Mt. Washington Drive (said westerly right-of-way lies 80.00 feet westerly and parallel with the west line of that property deeded to River's Edge Partnership in Book 238 at Page 2315 of Deschutes County Official Records) and the beginning of a non-tangent 729.50 foot radius curve to the left; thence along said westerly right-of-way and along said curve through a central angle of 13° 19' 10", an arc length of 169.59 feet (the chord of which bears South 17° 30' 19" East, 169.20 feet); thence South 24° 09' 54" East, 258.91 feet to the beginning of a tangent 610.00 foot radius curve to the right; thence along said curve through a central angle of 21° 25' 10", an arc length of 228.04 feet (the chord of which bears South 13° 27' 19" East, 226.72 feet) to the Point of Beginning.

Contains 2.38 acres, more or less.

Read for the first time the 21st day of May, 1997.

Read for the second time the 4th day of June, 1997.

Placed upon its passage the 4th day of June, 1997.

YES: 7 NO: 0

Authenticated by the Mayor the 4th day of June, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1680

AN ORDINANCE VACATING A PORTION OF OLNEY AVENUE RIGHT OF WAY BETWEEN HILL STREET AND NE DIVISION STREET, AS SHOWN ON THE PLAT OF LYTLE ACRES, CITY OF BEND, DESCHUTES COUNTY, OREGON AND DECLARING AN EMERGENCY.

A petition having been presented to the Bend Planning Commission, as directed by City Council, on May 5, 1997 requesting that the following described area be vacated:

All that property being a portion of the northeast quarter of the northeast quarter of Section 32, Township 17 South, Range 12 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, described as follows:

That portion of Olney Avenue bounded on the North by the southerly line of Tracts 7 and 8 of Lytle Acre Tracts (unrecorded); on the East by the westerly right-of-way of the Bend Parkway and the northwesterly right-of-way of the proposed realignment of Olney Avenue; on the South by the centerline of the existing Olney Avenue, and on the West by the easterly right-of-way of Hill Street.

To wit: Beginning at the southwest corner of said Tract 7 of Lytle Acre Tracts; thence along the south line of said Tracts 7 and 8, South 89°55'14" East, 316.54 feet to the westerly right-of-way of the Bend Parkway; thence along said westerly right-of-way of the Bend Parkway, South 15°07'45" East, 1.31 feet to the northwesterly right-of-way of the proposed realignment of Olney Avenue and a point on a non-tangent 315.00 foot radius curve to the left; thence along said right-of-way and said curve through a central angle of 09°36'16", an arc length of 52.80 feet (the chord of which bears South 65°44'36" West, 52.74' feet to the centerline of the existing Olney Avenue; thence along said centerline North 89°55'14" West, 268.83 feet to the easterly right-of-way of Hill Street; thence along said easterly right-of-way, North 00°04'46" East, 23.00 feet to the Point of Beginning.

Together with: That portion of Olney Avenue bounded on the North by the centerline of the existing Olney Avenue; on the East by the extension of the easterly lot line of Tract 18 of Lytle Acre Tracts (unrecorded); on the South by the northerly line of said Tract 18; and on the West by the easterly right-of-way of Hill Street.

To wit: Beginning at the northwest corner of said Tract 18; thence along the north line of said Tract 18, South 89°55'14" East, 200.00 feet to the northeast corner of said Tract 18; thence along an extension of the easterly line of said Tract 18, North 00°29'52" West, 23.00 feet to the centerline of the existing Olney Avenue; thence along said centerline, North 89°55'14" West, 199.77 feet to the easterly right-of-way of Hill Street; thence along said right-of-way, South 00°04'46" West, 23.00 feet to the Point of Beginning.

Together with: That portion of Olney Avenue bounded on the North by the centerline of the existing Olney Avenue; on the East by the northwesterly right-of-way of the proposed realignment of Olney Avenue and the north line of Tract 17 of Lytle Acre Tracts; and on the West by the extension of the west line of said Tract 17 to said centerline of the existing Olney Avenue.

To wit: Beginning at the northwest corner of said Tract 17; thence along the north line of said Tract 17, South 89°55'14" East, 17.78 feet to said northwesterly right-of-way of the proposed realignment of Olney Avenue and a point on a non-tangent 315.00 foot radius curve to the right; thence along said right-of-way and said curve through a central angle of 10°37'33", an arc length of 58.42 feet (the chord of which bears North 55°37'41" East, 58.33 feet) to said centerline of the existing Olney Avenue; thence along said centerline North 89°55'14" West, 66.21 feet to the extension of the west line of said Tract 17; thence along said extension South 00°29'52" East, 23.00 feet to the Point of Beginning.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property

describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 21st day of May, 1997, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That portion of Olney Avenue described above located in Bend, Deschutes County, Oregon, shall be vacated; and this vacation shall be effective when the construction of the new realigned Olney Avenue (which is located immediately south of that portion of Olney Avenue which is being vacated) has been completed, and the realigned Olney Avenue has been placed in service.

When the newly realigned Olney Avenue is placed in service the City Recorder shall cause a certified copy of the ordinance to be filed and recorded in the office of the County Clerk of Deschutes County, Oregon.

DECLARATION OF EMERGENCY

The City Council declares that an emergency exists in order that there be no delay in administering a construction contract for sewer main relocation in conjunction with the Olney Avenue realignment project. This project must be completed before the new alignment of Olney Avenue can be placed in service. Therefore, this Ordinance shall be in force and effect on June 5, 1997.

Read for the first time the 21st day of May, 1997.

Read for the second time the 4th day of June, 1997.

Placed upon its passage the 4th day of June, 1997.

Yes: 7 No: 0

Authenticated by the Mayor the 4th day of June, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1681

AN ORDINANCE VACATING A PORTION OF THE ALLEY THAT LIES WITHIN BLOCK 9 AS SHOWN ON THE PLAT OF KENWOOD GARDENS, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on March 19, 1997 requesting that the following described area be vacated:

> Extending from the southern edge of Northwest Ogden Avenue, the northerly 100 feet of the alley that lies within Block 9 as shown on the plat of Kenwood Gardens, located in the Northwest one-quarter of the Northeast one-quarter of Section 31, Township 17 South, Range 12 East of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon;

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 21st day of May, 1997, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of alley right of way located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 21st day of May, 1997.

Read for the second time the 4th day of June, 1997.

Placed upon its passage the 4th day of June, 1997.

Yes: 7 No: 0

Authenticated by the Mayor the 4th day of June, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1682

AN ORDINANCE VACATING A PORTION OF THE ALLEY THAT LIES WITHIN BLOCK 160 AS SHOWN ON THE PLAT OF SECOND ADDITION TO BEND, CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on December 4, 1996 requesting that the following described area be vacated:

> Extending from the eastern edge of Southwest Pelton Street, the westerly 200 feet of the alley that lies within Block 160 as shown on the plat of the Second Addition To Bend, located in the Northeast one-quarter of the Southeast one-quarter of Section 5, Township 18 South, Range 12 East of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon;

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 21st day of May, 1997, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of alley right of way located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 21st day of May, 1997.
Read for the second time the 4th day of June, 1997.
Placed upon its passage the 4th day of June, 1997.

Yes: 7 No: 0

Authenticated by the Mayor the 4th day of June, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1683

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL TO RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated June 18, 1997.

Section 2. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from Urban Medium Density Residential (RM) to Urban High Density Residential, (RH):

PARCEL A

All that property being a portion of the southwest quarter of Section 20, Township 17 South, Range 12 East, Willamette Meridian, in the City of Bend; Deschutes County, Oregon, described as follows:

A portion of the Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4) of Section Thirty-two (32), Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, described as follows:

The Southeasterly Half, being that portion lying Southeasterly of a line equidistant from and parallel to the Northwesterly and Southeasterly boundaries of the following described property:

Beginning at a point 180 feet South 62° 28' 40" East of the Southwesterly corner of Lot 25, Block 10, River Terrace; thence Northeasterly at right angles to the Northerly boundary of Newport Avenue, as presently constituted at said place, a distance of 150 feet; thence at right angles in a Southeasterly direction parallel to the Northerly boundary of Newport Avenue as presently constituted at said location, a distance of 135 feet; thence at right angles in a Southwesterly direction to the Northern boundary of Newport Avenue as presently constituted, 184.94 feet, more or less; thence at right angles in a Northwesterly direction along the Northern boundary line of Newport Avenue as presently constituted, a distance of 135 feet; thence at right angles, a distance of 34.94 feet, more or less, to the point of beginning.

PARCEL B

In Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon:

Section 32: That portion of the SE1/4 NW1/4 in the City of Bend, as follows: That portion lying Northwesterly of a line equidistant from and parallel to the Northwesterly and Southeasterly boundaries of the following described real property: Beginning at a point 180 feet South 62° 28' 40" East of the Southwesterly corner of Lot 25, Block 10 of River Terrace, according to the official plat thereof on file in the office of the County Clerk of Deschutes County, Oregon; thence Northeasterly at right angles to the Northerly boundary of Newport Avenue as presently constituted at said place, a distance of 150 feet; thence at right angles in a Southeasterly direction parallel to the Northerly boundary of Newport Avenue as presently constituted at said location a distance of 135 feet; thence at right angles in a Southwesterly direction to the Northern boundary of Newport Avenue as presently constituted 184.94 feet, more or less; thence at right angles in a Northwesterly direction along the Northern boundary line of Newport Avenue as presently constituted

a distance of 135 feet; thence at right angles a distance of 34.94 feet, more or less, to the point of beginning.

Read for the first time the 2nd day of July, 1997.

Read for the second time the 16th day of July, 1997.

Placed upon its passage the 16th day of July, 1997.

YES: 6 NO: 0

Authenticated by the Mayor the 16th day of July, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1684

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM IL, LIGHT INDUSTRIAL TO CL, LIMITED COMMERCIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated May 30, 1997.

Section 2. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from Light Industrial (IL) to Limited Commercial (CL):

That portion of the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section Five (5), TOWNSHIP EIGHTEEN (18) SOUTH, RANGE TWELVE (12) EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon, described as follows: Beginning at a point which is located South 0° 49' 36" East 1275.11 feet and West 60 feet from the Northeast corner of said Section 5; thence South 39° 35' 57" West 319.08 feet; thence North 112.45 feet; thence East 317.49 feet; thence South 0° 49' 36" East 110.15 feet to the point of beginning.

EXCEPTING THEREFROM the Westerly 117.99 feet thereof.

Read for the first time the 2nd day of July, 1997.

Read for the second time the 16th day of July, 1997.

Placed upon its passage the 16th day of July, 1997.

YES: 6 NO: 0

Authenticated by the Mayor the 16th day of July, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1685

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, SECTION 10.10.10 (5) (c) RS, URBAN STANDARD DENSITY RESIDENTIAL ZONE AND 10.10.11 (c) RM, URBAN MEDIUM DENSITY RESIDENTIAL ZONE, TO REDUCE THE FRONT YARD SETBACK FROM 20 FEET TO 10 FEET IF CERTAIN CONDITIONS ARE MET.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 10 and Section 11 (5) is hereby amended to read:

(c) Front Yard: The front yard shall be either a minimum of 20 feet except an existing 40 or 50 foot corner may have one front yard of 10 feet, provided the garage or carport is at least 20 feet from the property line, or a minimum of 10 feet from the property line when the following conditions exist:

A The lot is within a subdivision platted after the date of adoption of this ordinance and the garage is setback a minimum of 20 feet from the front property line, and

B. The lot fronts on a local public or private street.

Read for the first time the 16th day of July, 1997.

Read for the second time the 6th day of August, 1997.

Placed upon its passage the 6th day of August, 1997.

YES: 5 NO: 0

Authenticated by the Mayor the 6th day of August, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1686

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178,TO ALLOW NEW AND USED CAR/TRUCK SALES IN THE GENERAL COMMERCIAL (CG) ZONE.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 17 (2) is hereby amended to read:

(c) Auto and Truck sales, new or used, service and repair.

Read for the first time the 6th day of August, 1997.

Read for the second time the 20th day of August, 1997.

Placed upon its passage the 20th day of August, 1997.

YES: 7 NO: 0

Authenticated by the Mayor the 20th day of August, 1997.

Bob Woodward

Bob Woodward, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1687

AN ORDINANCE INCREASING THE AUTHORITY OF THE CITY MANAGER TO EXECUTE STATE SPECIAL PUBLIC WORKS FUND LOAN DOCUMENTS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 1 of Ordinance No. NS-1671 is amended to read:

1. Loan Authorized. The City Council authorizes Larry Patterson, City Manager, to execute the Financial Assistance Award Contract, Loan Agreement, the Promissory Note attached as Exhibit "F" to the Loan Agreement (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the Department on the condition that the principal amount of the loan from the Department to the City of Bend is not in excess of **$655,000** [$600,000] and the interest rate on such loan is not in excess of 6 percent. The proceeds of the loan from the Department shall be applied solely to the "Costs of the Project" as such term is defined in the Loan Agreement.

Read for the first time the 20th day of August, 1997.

Read for the second time the 3rd day of September, 1997.

Placed upon its passage the 3rd day of September, 1997.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of September, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1688

AN ORDINANCE AMENDING THE CITY'S LOCAL IMPROVEMENT DISTRICT PROCEDURES.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 4.318 is amended to read:

4.318 Assessment by the City Council.

(1) At the time and place specified in the notice of proposed assessment, the City Council shall consider all objections timely filed to the proposed assessment. The Council may adopt, correct, modify or revise proposed assessment and shall determine the amount of assessment to charge against each property to be assessed according to the special benefits accruing to the property from the project and shall, by **resolution** [ordinance], spread the assessment. The **resolution** [ordinance] spreading the assessment may be passed either before or after the actual work on the project is done.

Section 2. Bend Code Section 4.320 is amended to read:

4.320 Notice of Assessment. Within ten days after the **resolution** [ordinance] spreading the assessments has been passed and entered in the docket of City liens, the City [Recorder] shall publish and mail a notice of assessment to the owners of the assessed property. The notice of assessment shall recite the date of the assessment **resolution** [ordinance] and shall state that upon failure of the owner of the property assessed to make application to pay the assessment in installments **pursuant to the Bancroft Bonding Act (currently ORS 223.205-223.295)** [within ten days from a certain date, which shall be the day notice of assessment was published] or upon the failure of the owner to pay the assessment in full within 20 days from the date of the assessment **resolution** [ordinance], then interest will commence to run on the assessment and the property assessed will be subject to foreclosure; and notice of assessment shall further set forth a description of the property assessed, the name of the owner of the property, and the amount of each assessment.

Section 3. The word "City" shall be substituted for the terms "City Engineer" and "City Recorder" wherever those terms appear in Bend Code Sections 4.300 - 4.338.

Section 4. Bend Code Sections 4.300 - 4.338 as amended by this ordinance and Ordinance No. NS-1668 adopted December 18, 1996 shall be codified in Bend Code Chapter 2.

Section 5. Because a local improvement project has been completed, notices of proposed assessment for the project have been given, and the Council has heard objections to the assessment but has indicated its intention to proceed with the assessment; an emergency is declared to exist so that assessment for this project can be accomplished by resolution at this time, instead of delaying the assessment for thirty days.

Read for the first time the 20th day of August, 1997.

Read for the second time the 3rd day of September, 1997.

Placed upon its passage the 3rd day of September, 1997.

YES: 7 NO: 0

Authenticated by the mayor the 3rd day of September, 1997.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. 1689

AN ORDINANCE AMENDING CITY OF BEND CODE, CHAPTER 5.385, SECTION 2 CHANGING THE DEFINITION OF MOTOR VEHICLE.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.100(1) of Bend Code, Chapter 1 is amended by changing that section to read:

5.385 Noise.

(2) Definitions. As used in this section, the following mean:

Motor Vehicle. A vehicle that is self-propelled or designed for self-propulsion, except ~~road rollers, farm tractors and traction engines~~ ~~Police vehicles, ambulances, fire engines, and other emergency vehicles responding to emergency calls are not subject to this section.~~ **vehicles authorized by the City.**

Read for the first time the 3rd day of September, 1997.

Read for the second time the 17th day of September, 1997.

Placed upon its passage the 17th of September, 1997.

YES: 6 NO: 1

Authenticated by the Mayor the 17th day of September, 1997.

Bob Woodward
Mayor

ATTEST:

Recorder of the City of Bend

S:\RECORDER\ORD\1689.WPD

ORDINANCE NO. NS-1690

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RL, URBAN LOW DENSITY RESIDENTIAL TO RS, URBAN STANDARD DENSITY RESIDENTIAL

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officerws findings and record, and has found that there is a public need and benefit for the proposed change The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated October 8,1997, file number PZ-97-197.

Section 2. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from Urban Low Density Residential (RL) to Urban Standard Density Residential (RS).

LEGAL

Tract 13 of WAYWEST PROPERTrES, Deschutes County, Oregon. EXCEPTING THEREFROM that portion lying within the Plat of PARK PLACE, PHASE I, Deschutes County, Oregon. ALSO EXCEPTING THEREFROM all of PARK PLACE PHASE II, Deschutes County, Oregon.

ALSO EXCEPTING THEREFROM the following described parcel: Commencing at the Southwest corner of Tract 13, Waywest Properties, said point being at the intersection of the Northerly right of way of Larkwood Drive and the Southwest corner of Park Place Phase II;

Thence North 00 degrees 01' 01" East along the Easterly right of way of Larkwood Drive and the Westerly boundary of said Park Place Phase II, 251.52 feet to the Northwesterly corner of said Park Place Phase II and the TRUE POINT OF BEGINNING;

Thence continuing along said Easterly right of way of Larkwood Drive, North 00 degrees 01' 01"' East, 74.00 feet;

Thence leaving said Easterly right of way, North 89 degrees 33' 44" East, 204.47 feet to the Northwesterly corner of a common area of said Park Place Phase II;

Thence South 58 degrees 40' 19" West, along the Northwesterly boundary of said common area, 144.13 feet to the Northwesterly corner of Lot 8, PARK PLACE PHASE II;

Thence leaving said common area boundary, South 89 degrees 33, 44" West along the Northerly line of a drainfield easement for said Lot 8, 81.37 feet to the POINT OF BEGINNING.

Read for the first time the 21st day of January, 1998.

Read for the second time the 4th day of February, 1998

Placed upon its passage the 4th day of February, 1998

YES: 6 NO: 0 ABSTAIN: 1

Authenticated by the Mayor the the 4th day of February, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1691

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL TO RH, URBAN HIGH DENSITY RESIDENTIAL

THE CITY OF BEND ORDAINS AS FOLLOWS

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the findings and recommendation contained in the Findings and Recommendation of Hearings Officer dated November 20,1997, file number PZ-97-209.

Section 2. Section 7(1) of Ordinance No. NS-1.178 and the Zoning Map of the City of Bend, are amended by changing the designation of the following described property from Urban Medium Density Residential (RM) to Urban High Density Residential (RH).

LEGAL DESCRIPTION

Lot 10 and 11, Block 1 of Wiestoria; Deschutes County, Oregon

Read for the first time the 4th day of February,1998.

Read for the second time the 18th day of February, 1998.

Placed upon its passage the 18th day of February, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 18th day of February, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1692

AN ORDINANCE AMENDING SECTION 6.019 OF THE BEND UNIFORM TRAFFIC CODE PROVIDING FOR THE FORFEITURE OF VEHICLES IN CERTAIN CIRCUMSTANCES, AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Uniform Traffic Code Section 6.019 is amended to read:

6.019 Forfeiture Proceedings. Any vehicle subject to forfeiture may be forfeited by the City. Forfeiture proceedings shall be in accordance with the procedure set out in [Sections 1 to 14 Chapter 791, Oregon Laws, 1989, as amended by Chapters 218, 237, 276, 291, 800 and 924, Oregon Laws, 1991] **the 1997 Oregon Revised Statutes Chapter 475A,** which are incorporated herein by this reference.

Section 2. Because it is necessary that the Bend Uniform Traffic Code providing for the forfeiture of vehicles in certain circumstances be consistent with the County's Vehicle Forfeiture Ordinance which has recently been amended, an emergency is declared and this ordinance shall take effect immediately upon its passage.

Read for the first time the 4th day of March, 1998.

Read for the second time the 18th day of March, 1998.

Placed upon its passage the 18th day of March, 1998

YES: 6 NO: 0

Authenticated by the Mayor the 18th day of March, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1693

AN ORDINANCE ADOPTING THE 1997 AMENDMENTS OF THE OREGON LEGISLATURE TO THE BEND UNIFORM TRAFFIC CODE.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Bend Uniform Traffic Code Section 6.015 is amended to read:

6.015 Application of State Traffic Laws. A violation of the provisions of the Oregon Vehicle Code in ORS Chapters 801 through 822 and ORS 476.715 is a municipal ordinance offense against the City of Bend. The provisions of ORS Chapter 153 shall be applicable to all actions filed in Bend Municipal Court, which allege a violation of this section. Amendments to the chapters of ORS incorporated herein made by the 1983, 1985, 1987, 1989, 1991, 1993 [and] 1995 **and 1997** Legislatures shall be amendments to this section.

Read for the first time the 18th day of March, 1998.

Read for the second time the 1st day April, 1998.

Placed upon its passage the 1st day of April, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 1st day of April, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1694

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, REGARDING PROCESSING OF THE MR ZONE SITE REVIEW APPLICATIONS.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 10.10.21A(2) of NS-1178 is hereby amended to read as follows:

(2) Development Plans Required. The Mixed-use Riverfront zone shall only be applied to the area designated on the Bend Area General Plan Map. Before development can occur in the MR zone [the Design Review Board shall review and approve both] a Facilities Plan and a Master Development Plan **shall be reviewed and approved. The Facility Plan shall be processed as a Type II Activity. The Bend Urban Area Planning Commission acting as the Design Review Board shall review and approve the Master Development Plan.**

Section 2. Section 10.10.21A(4)(c) of NS-1178 is hereby amended to read as follows:

(c) Upon approval of a Master Development Plan all subsequent building and site development must comply with the approved Master Development Plan and the standards and conditions of this section. **Minor alterations to an approved** Master Development Plan[s] may be revised or modified **as a Type II Activity** using the procedures and standards in this section. **A minor alteration to a Master Plan may include adjustments to local street and pedestrian corridor alignments, alterations to site design guidelines, changes to lot configurations, and the re-location of plazas and open space within the master plan area provided the approved Master Development Plan concept is not compromised.**

Section 3. Section 10.10.21A(5) of NS-1178 is hereby amended to read as follows:

(5) Permitted Uses. The following permitted uses are subject to the building and site design standards of subsection (4) of this Section. Permitted uses may be restricted or mitigation measures applied if [the Design Review Board finds that] the use conflicts with existing uses adjacent to the MR zone. **Any proposed development that is on** property within 100 feet of the ordinary high water mark of the Deschutes River is also subject to the design review standards in Section 22A.

Section 4. Section 10.10.21A(6) of NS-1178 is hereby amended to read as follows:

(6) Building and Site Development Standards. In addition to the Master Development Plan approval in Section (4) the development of individual buildings and related areas shall comply with the following standards [and is subject to review and approval by the Design Review Board]. **Building and Site Development shall be processed as a Type II Activity.**

Section 5. Section 10.10.21A (6)(o) of NS-1178 is hereby amended to read as follows:

(o) Local Streets: Local streets approved, as part of the Master Development Plan may be public or private streets. If private streets are proposed as part of a Master Development Plan, the [Design Review Board] **Director** shall:

Read for the first time the 20th day of May, 1998.

Read for the second time the 3rd day of June, 1998.

Placed upon its passage the 3rd day of June, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of June, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1695

AN ORDINANCE AMENDING THE CITY OF BEND LAND USE PERMIT AND REVIEW PROCEDURES NS-1556 REGARDING PROCESSING OF THE MR ZONE SITE REVIEW APPLICATIONS.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section –16.3(2) of NS-1556 shall hereby be amended to read as follows:

(2) Type II Activities: Land partitions, tentative subdivision plans, planned unit development plans, site plan reviews for commercial and industrial projects, variances, conditional use permits, fill and removal permits, "similar use" requests, solar access permits, [and] site plan reviews for duplex and triplex dwellings larger than 3600 square feet and multiple family dwellings with four units or more, **and facility plans and building and site development plans in the MR zone and minor alterations to Master Development Plans**.

Read for the first time the 20th day of May, 1998.

Read for the second time the 3rd day of June, 1998.

Placed upon its passage the 3rd day of June, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of June, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1696

AN ORDINANCE AMENDING THE CITY'S PLANNING COMMISSION ORDINANCE (ORDINANCE NO. NS-1300).

THE BEND CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. **The City of Bend and Deschutes County have entered into intergovernmental agreements dated February 18, 1998 relating to the joint management of the Bend urban area. These agreements provide for the transfer of certain land use responsibilities within the Bend urban growth boundary from Deschutes County to the City of Bend. These agreements affect the relationship between the City of Bend, Deschutes County and the Bend Urban Area Planning Commission. The purpose of this ordinance is to revise certain provisions of the Bend Urban Area Planning Commission Ordinance to reflect the transfer of land use responsibilities from Deschutes County to the City.**

Section 2. Section 1 of Ordinance No. NS-1300 is amended to read:

> Section 1. Formation. [Pursuant to Agreement between the City of Bend and Deschutes County dated August 27,1980, there is hereby created a joint Bend Urban Area Planning Commission. It] **The Bend Urban Area Planning Commission** shall be the Planning Commission for the City of Bend and the unincorporated area of Deschutes County within the adopted Bend Urban Growth Boundary.

Section 3. Section 2 of Ordinance No. NS-1300 is amended to read:

> Section 2. Membership and Expenses. The Commission shall be composed of seven members who reside within the Urban Growth Boundary. [Three members shall be appointed by the Board of County Commissioners of Deschutes County, Oregon, and four members shall be appointed by the Bend City Commission The Board of County Commissioners shall appoint one member for a term of two years and two members for a term of four years. The Bend City Commission shall appoint two members for a term of four years and two members for a term of two years.] **All members shall be appointed by the Bend City Council. The terms of the members shall be four years except that the terms of the members appointed by the City Council after the February 18, 1998 Joint Management Agreement shall be structured so that the terms of not more than four members of the Commission shall expire in any given year.**
>
> (1) Commission members shall receive no compensation, but, shall be reimbursed for authorized expenses.
>
> (2) A member of the Commission may be removed by the [appointing body] **City Council** for misconduct, nonperformance of duty, or three successive unexcused absences from regular meetings. [The non-appointing body may, be resolution, request that a member be removed by the appointing body. If the appropriate governing body finds misconduct, nonperformance of duties, or three successive unexcused absences from regular meetings, by said member, he or she shall be removed.]
>
> (3) Vacancies in the Commission shall be filled by **an appointment by** the [appropriate appointing authority] **City Council** for the unexpired term of the predecessor in the office.
>
> (4) No more than two voting members of the Commission may engage principally in buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling, or developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

(5) No Commission member shall serve more than two full terms or ten years, whichever is greater.

(6) The membership of the Commission shall, as much as possible, be representative of the various geographical parts of the Bend Urban Growth Boundary.

Section 4. Section 7 of Ordinance No. NS-1300 is amended to read:

Section 7. Powers and Duties. The Commission shall have the following duties:

(1) Carry out a comprehensive planning program, using citizen input and public hearings when appropriate, within the Bend Urban Growth Boundary, and coordinate its activities with other jurisdictions, planning bodies, and districts.

(2) Review those land use applications within its jurisdiction [under City of Bend and Deschutes County Ordinances. Any appeals from the Commission shall be to the respective governing body having jurisdiction.] **pursuant to applicable law and the joint management agreement between Deschutes County and the City of Bend.**

(3) Review and act on all appeals of land use and other decisions [.] **pursuant to the City's land use procedures and the joint management agreement between Deschutes County and the City of Bend.**

(4) Act as the Citizen Involvement Committee within the Bend Urban Growth Boundary and advise the [governing bodies] **City Council** on citizen involvement programs. [Study and propose such measures as are advisable for promotion of the public interest, health, morals, safety, comfort, convenience, and welfare within the Bend Urban Growth Boundary.]

Section 5. Section 8 of Ordinance No. NS-1300 is amended to read:

Section 8. Advisory Role. The Commission may:

(1) Recommend and make suggestions to the Bend City [Commission, Board of County Commissioners of Deschutes County, Oregon,] **Council** and other public authorities concerning the laying out, widening, extending, and locating of public thoroughfares, parking of vehicles, relief of traffic congestion, betterment of housing and sanitation conditions; and establishment of districts for limiting the use, height, area, bulk, and other characteristics of buildings and structures related to land development within the Bend Urban Growth Boundary.

(2) Recommend to the Bend City [Commission] **Council** [Board of County Commissioners of Deschutes County, Oregon, and other public authorities] plans for regulating the future growth, development, and beautification of the Bend Urban Growth Boundary; development within the Bend Urban Growth Boundary of proper sanitation, public utilities, transportation facilities, and appropriate incentives for overall energy conservation.

(3) **Upon request by the Bend City Council,** recommend [to the Bend City Commission and the Board of County Commissioners of Deschutes County, Oregon and other public authorities,] plans for promotion, development and regulation of the economic needs of the community.

(4) **Upon request by the Bend City Council,** make economic surveys and study the needs of present and potential industrial and other business needs within the Bend Urban Growth Boundary.

(5) Perform such other review and make whatever other recommendations on land use matters as may be requested of the Planning Commission by the

City Council.

Section 5. Section 9 of Ordinance No. NS-1300 shall be deleted.

[Section 9. Staff Services. The City of Bend and Deschutes County Planning staffs will hold joint responsibility for preparing staff reports and submitting them to the hearings body. A standard format shall be adopted and used for all reports submitted. If the land for which an application has been filed is located in the City of Bend, the City Planning staff will prepare the staff report and send it to the Deschutes County Planning staff for review and comment. If the land for which an application has been filed is outside City of Bend city limits but inside the Bend Urban Growth Boundary, the County Planning staff shall prepare the report for review and comment prior to submission to the hearings body. In the event of disagreement, each staff may present separate staff reports.]

Section 6. Section 10 of Ordinance No. NS-1300 shall be deleted.

[Section 10. Review. The Bend City Commission and Board of County Commissioners of Deschutes County, Oregon, shall have the power to review, on its own motion, and hear appeals of, any decision made by the hearings body, Hearings Officer, or Commission which affects land under its jurisdiction.]

Read for the first time the 20th day of May, 1998.

Read for the second time the 3rd day of June,1998.

Placed upon its passage the 3rd day of June, 1998.

YES: 7 NO: 0

Authenticated by the mayor the 3rd day of June, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

ORDINANCE NO. NS-1697

AN ORDINANCE ADOPTING THE 2nd AMENDMENT TO THE CENTRAL BEND DEVELOPMENT PROGRAM AREA URBAN RENEWAL PLAN TO ESTABLISH A MAXIMUM AMOUNT OF INDEBTEDNESS

WHEREAS, the City Council of the City of Bend (the "Council") adopted the Central Bend Development Program Area Urban Renewal Plan by Ordinance No. 1499, dated September 6, 1989, which plan has been amended one time.

WHEREAS, the Council wishes to further amend the Plan in accordance with the provisions of Chapter 457 of Oregon Revised Statutes (1997 Edition) to establish a maximum amount of indebtedness (the "Amendment").

WHEREAS, the Council finds and determines, based upon the information contained in the reports accompanying the Plan, that:

(1) The Central Bend Development Program Urban Renewal Area (the "Area") is blighted.
(2) The rehabilitation and redevelopment of the Area is necessary to protect the public health, safety or welfare of the City of Bend.
(3) The Plan conforms to the City of Bend Comprehensive Plan and economic development plan and provides an outline for accomplishing the urban renewal projects the urban renewal plan proposes.
(4) Provision has been made to house displaced persons within their financial means in accordance with ORS 281.045 to 281.105 and, except in the relocation of elderly or disabled individuals, without displacing on priority lists persons already waiting for existing federally subsidized housing;
(5) The acquisition of real property as provided for in the Plan is necessary to achieve the objectives of the Plan.
(6) Adoption and carrying out of the urban renewal plan is economically sound and feasible; and
(7) The municipality shall assume and complete any activities prescribed it by the Plan.

WHEREAS, the Bend Development Board, the Urban Renewal Agency of the City of Bend ("Agency") has forwarded the Amendment and the accompanying Report to the City of Bend Planning Commission for recommendations, and the Planning Commission, on June 1, 1998 adopted a motion recommending adoption of the Amendment.

WHEREAS, the Agency has consulted and conferred with the governing bodies of the taxing districts that levy taxes within the Area regarding the Amendment, and no written recommendations have been received from such governing bodies.

WHEREAS, the Agency has undertaken a review of the records relating to the scope and cost of projects in the Plan and the schedule for their completion as of December 5, 1996. A full description of the review is included in the Report on this Amendment, dated May 28, 1998, which description is hereby incorporated into this Ordinance as additional findings.

WHEREAS, the description of the review of the scope and costs of projects constitutes a good faith estimate of the scope and costs of projects anticipated as of December 5, 1996.

WHEREAS, the Agency met with the Council on May 20, 1998 to review the proposed maximum amount of indebtedness for the Plan and the choice of Collection Option and

WHEREAS, the Agency met with the Board of Commissioners of Deschutes County on May 14, 1998 to review the proposed maximum amount of indebtedness for the Plan.

WHEREAS, on June 3, 1998 the Council held a public hearing regarding the adoption of the Amendment.

WHEREAS, the Council has considered the material presented by the Agency, all information presented and all matters discussed at the meetings described above, the recommendations of the Planning Commission and the action of affected municipalities, if any, and finds that based upon a good faith estimate of the scope and costs of projects, including but not limited to increases in costs due to reasonably anticipated inflation in the Plan and the schedule for their completion as the completion dates

REPORT ON AMENDMENT TO CENTRAL BEND DEVELOPMENT PROGRAM AREA URBAN RENEWAL PLAN TO ESTABLISH A MAXIMUM AMOUNT OF INDEBTEDNESS
May 28, 1998

INTRODUCTION

This is the Urban Renewal Report accompanying the ___ Amendment (the "Amendment") of the Central Bend Development Program Urban Renewal Plan (the "Plan"), establishing a maximum amount of indebtedness, as explained below.

BACKGROUND

The Constitutional amendments resulting from passage of Measure 50 were implemented in the 1997 Oregon Legislature in Senate Bill (SB) 1215. The effect of the new tax rates and assessed values called for in Measure 50 could have drastically reduced urban renewal revenues and stopped or delayed the completion of urban renewal plans.

However, Measure 50 and SB 1215 specifically allow for the timely completion of urban renewal plans that were in existence prior to new law. These existing urban renewal plans are allowed to generate almost the same amount of revenue that they would have prior to new law. The Legislature acknowledged that many private sector and public sector commitments were made based on anticipating the completion of urban renewal plans, and that these commitments should be honored.

In return for this "grandfathering" of existing urban renewal plans, the Legislature required that "existing urban renewal plans" be limited in cost, based on the state of the urban renewal plan in December, 1996. In order words, existing plans, and only existing plans, are entitled to the special grandfathering provisions of Measure 50. The means of establishing this limit to the cost of a plan is amending the plan to include a "maximum amount of indebtedness" that may be issued or incurred under the plan.

"Maximum indebtedness" is defined by statute to mean the amount of the principal of indebtedness included in a plan pursuant to ORS 457.190 (this section contains the requirement for a maximum amount of indebtedness) and does not include indebtedness incurred to refund or refinance existing indebtedness.

ORS 457.190 also states:

> The maximum amount of indebtedness that may be issued or incurred under the plan, as determined for purposes of meeting the requirements of this paragraph, shall be based upon good faith estimates of the scope and costs of projects, including but not limited to increases in costs due to reasonably anticipated inflation, in the existing urban renewal plan and the schedule for their completion as completion dates were anticipated as of

December 5, 1996. The maximum amount of indebtedness shall be specified in dollars and cents.

This report on the Amendment contains many sections that are required under ORS 457.085 but which do not apply to the Amendment. In all cases where a section is not applicable, the reason is that the Amendment to the plan does not change the substance of the Plan but rather quantifies costs of projects already contained in or authorized by the Plan.

(A) A DESCRIPTION OF PHYSICAL, SOCIAL AND ECONOMIC CONDITIONS IN THE URBAN RENEWAL AREAS OF THE PLAN AND THE EXPECTED IMPACT, INCLUDING THE FISCAL IMPACT, OF THE PLAN IN LIGHT OF ADDED SERVICES OR INCREASED POPULATION

The Amendment is of a technical nature and this section does not apply.

(B) REASONS FOR SELECTION OF EACH URBAN RENEWAL AREA IN THE PLAN

The Amendment is of a technical nature and this section does not apply.

(C) THE RELATIONSHIP BETWEEN EACH PROJECT TO BE UNDERTAKEN UNDER THE PLAN AND THE EXISTING CONDITIONS IN THE URBAN RENEWAL AREA

The Amendment is of a technical nature and this section does not apply.

(D) THE ESTIMATED TOTAL COST OF EACH PROJECT AND THE SOURCES OF MONEYS TO PAY SUCH COSTS

Estimated project costs are provided in Exhibit A, "Findings", attached hereto and incorporated herein by reference.

(E) THE ANTICIPATED COMPLETION DATE FOR EACH PROJECT

Estimated completion dates are provided in Exhibit A, "Findings", attached hereto and incorporated herein by reference.

(F) THE ESTIMATED AMOUNT OF MONEY REQUIRED IN EACH URBAN RENEWAL AREA UNDER ORS 457.420 TO 457.460 AND THE ANTICIPATED YEAR IN WHICH INDEBTEDNESS WILL BE RETIRED OR OTHERWISE PROVIDED FOR UNDER ORS 457.420 TO 457.460

The Amendment is of a technical nature and this section does not apply.

(G) A FINANCIAL ANALYSIS OF THE PLAN WITH SUFFICIENT INFORMATION TO DETERMINE FEASIBILITY

The Amendment is of a technical nature and this section does not apply.

(H) A FISCAL IMPACT STATEMENT THAT ESTIMATES THE IMPACT OF THE TAX INCREMENT FINANCING, BOTH UNTIL AND AFTER THE INDEBTEDNESS IS REPAID, UPON ALL ENTITIES LEVYING TAXES UPON PROPERTY IN THE URBAN RENEWAL AREA

The Amendment is of a technical nature and this section does not apply.

(I) A RELOCATION REPORT WHICH SHALL INCLUDE (A) AN ANALYSIS OF EXISTING RESIDENTS OR BUSINESSES REQUIRED TO RELOCATE PERMANENTLY OR TEMPORARILY AS A RESULT OF AGENCY ACTIONS UNDER ORS 457.170; (B) A DESCRIPTION OF THE METHODS TO BE USED FOR THE TEMPORARY OR PERMANENT RELOCATION OF PERSONS LIVING IN, AND BUSINESSES SITUATED IN, THE URBAN RENEWAL AREA IN ACCORDANCE WITH ORS 281.045 TO 281.105; AND (C) AN ENUMERATION, BY COST RANGE, OF THE EXISTING HOUSING UNITS IN THE URBAN RENEWAL AREAS OF THE PLAN TO BE DESTROYED OR ALTERED AND NEW UNITS TO BE ADDED.

The Amendment is of a technical nature and this section does not apply.

were anticipated as of December 5, 1996, the maximum amount of indebtedness that may be issued or incurred under the Plan is $21,543,923.

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The 2nd Amendment to the Central Bend Development Program Area Urban Renewal Plan , attached hereto as Exhibit A, and incorporated herein by this reference, is hereby adopted.

EXHIBIT "A" TO ORDINANCE NO NS-1697

Second Amendment to Central Bend Development Program Area Urban Renewal Plan

Section 700 – Methods for Financing the Project, Subsection (B) Tax Increment Financing is amended to read as follows:

B. Tax Increment Financing. The Bend Development Board proposes to finance the Plan, and the projects undertaken with respect to the Plan, in whole or in part, through tax increment financing as authorized by Article IX, section 1c of the Oregon Constitution and ORS 457.420 through 460. Such financing is authorized by the statute when the plan contains the following provision: The ad valorem taxes, if any, levied by a taxing districts in which all or a portion of an urban renewal area is located, shall be divided by rates as provided in section 1c, Article XI of the Oregon Constitution, and ORS 457.440

No bonded indebtedness shall be issued after Fiscal Year 2003-2004 under this Plan (and under any and all projects undertaken with respect to this Plan) for which taxes divided under ORS 457.440 are to be pledged. Nothing in this section is intended to inhibit the ability of the Bend Development Board to refinance or refund existing bonded indebtedness that may be issued under the Plan.

The maximum amount of indebtedness that may be issued or incurred under this Plan shall be $21,543,923. This amount is the amount of the principal of indebtedness and does not include indebtedness incurred to refund or refinance existing indebtedness. This amount has been based upon good faith estimates of the scope and costs of projects, including but not limited to increases in costs due to reasonably anticipated inflation, in the existing urban renewal plan and the schedule for their completion as completion dates were anticipated as of December 5, 1996.

Read for the first time the 3rd day of June, 1998.

Read for the second time the 17th day of June, 1998.

Placed upon its passage the 17th day of June, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 17th day of June, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1698

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO MR, MIXED USE RIVERFRONT.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated April 2, 1998, file number PZ-98-08.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" and shown in "Exhibit B" from Urban Standard Density Residential (RS) to Mixed Use Riverfront (MR).

Read for the first time the 3rd day of June, 1998.

Read for the second time the 17th day of June, 1998.

Placed upon its passage the 17th day of June, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 17th day of June, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

EXHIBIT A

PROPERTY DESCRIPTION

A parcel of land containing 3.1 Acres, more or less, located in a portion of the Southeast One-Quarter (SE1/4) of Section 5, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Commencing at the Center One-Quarter corner of said Section 5, Township 18 South, Range 12 East of the Willamette Meridian; thence South 25° 20' 13" East a distance of 321.91 feet to a point on the Zoning Line between the current MR Zone and RS Zone said point also being the "True Point of Beginning" of this description; thence along said Zoning Line the following three courses:

North 70° 44' 25" East a distance of 649.85 feet;
North 55° 49' 33" East a distance of 138.02 feet to the East-West Centerline of said Section 5;
North 89° 56' 15" East a distance of 188.45 feet along said East-West Centerline;

thence leaving said Zoning Line and said East-West Centerline South a distance of 91.78 feet to a point on the easterly boundary of the Pilot Butte Canal; thence along said easterly canal boundary line the following three courses:

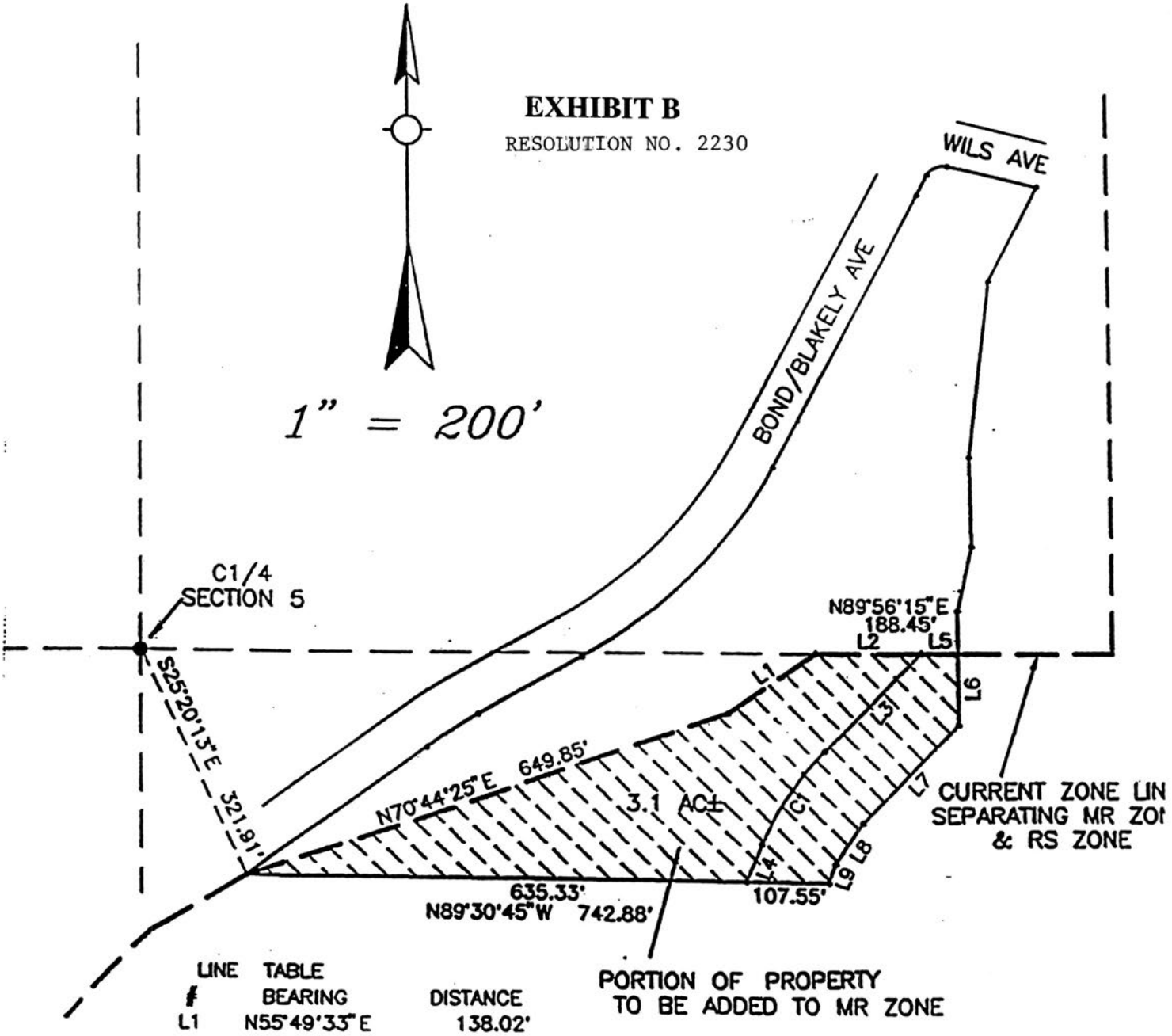
South 44° 56' 18" West a distance of 180.66 feet;
South 33° 54' 25" West a distance of 64.77 feet;
South 20° 51' 05" West a distance of 26.74 feet;

thence leaving siad easterly canal boundary line North 89° 30' 45" West a distance of 742.88 feet to the "True Point of Beginning", the terminus of this description.

LOCATED IN: SE1/4 OF SECTION 5, T18S, R12 E, W.M.,
CITY OF BEND, DESCHUTES COUNTY, OREGON

EXHIBIT B

RESOLUTION NO. 2230



LINE TABLE

#	BEARING	DISTANCE
L1	N55°49'33"E	138.02'
L2	N89°56'15"E	140.00'
L3	S45°29'19"W	179.82'
L4	S22°59'15"W	53.00'
L5	N89°56'15"E	48.45'
L6	S00°00'00"W	91.78'
L7	S44°56'18"W	180.66'
L8	S33°54'25"W	64.77'
L9	S20°51'05"W	26.74'
L10	N89°30'45"W	107.55'

CURVE TABLE

#	RADIUS	DELTA	LENGTH	CH.BEARING	DISTANCE	TANGENT
C1	380.00'	22°30'04"	149.23'	S34°14'17"W	148.28'	75.59'

ORDINANCE NO. NS-1699

AN ORDINANCE SELECTING AN OPTION FOR COLLECTION OF URBAN RENEWAL TAXES AND DECLARING AN EMERGENCY.

Whereas, the City Council of the City of Bend adopted the Central Bend Development Program Area Urban Renewal Plan ("Plan") by Ordinance No. NS-1499, dated September 6, 1989, which Plan has been amended one time; and

Whereas, as part of legislation implementing changes to the Oregon Constitution adopted by the voters on May 20, 1997 (Measure 50), the 1997, the 1997 Oregon Legislative Assembly amended ORS Chapter 457 to allow a municipality that had adopted an urban renewal plan by ordinance prior to December 6, 1996 to collect ad valorem taxes using one of three options to pay when due, indebtedness issued or incurred to carry out the Plan as permitted by Section 11(16), Article XI of the Oregon Constitution; and

Whereas, the Bend Development Board, acting as the duly designated urban renewal agency of the City of Bend ("Agency"), has recommended Option 3 as the as the recommended option to collect such ad valorem property taxes; and

Whereas, on June 10, 1998, the Deschutes County Board of Commissioners adopted a resolution in favor of the option recommended by the Agency; and

Whereas, on June 17, 1998, the Bend City Council has considered the materials presented by the Agency, the information presented and all matters discussed at the meeting(s) described above, the action of affected municipalities, if any, and finds that Option 3 is the appropriate method of collecting ad valorem property taxes sufficient to pay, when due, indebtedness issued or incurred to carry out the Plan as permitted by Section 11(16), Article XI of the Oregon Constitution;

NOW, THEREFORE, THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Option 3 as described in ORS 457.435(2) is hereby chosen as the method for collecting ad valorem property taxes sufficient to pay when due, indebtedness issued or incurred to carry out the Central Bend Development Program Area Urban Renewal Plan as permitted by Section 11(16), Article XI of the Oregon Constitution. The maximum amount of urban renewal taxes to be raised by dividing the taxes shall be $899,555.

Section 2. It is necessary that this ordinance should become immediately operative to provide for continued carrying out of the Plan, to rehabilitate and redevelop the urban renewal area, protecting the public health and safety, and in order to effect timely certification to the County Assessor. Therefore, an emergency is declared to exist, and this ordinance shall take effect immediately upon its passage.

Read for the first time the 17th day of June, 1998.

Read for the second time the 30th day of June, 1998.

Placed upon its passage the 30th day of June, 1998.

YES: 5 NO: 0

Authenticated by the Mayor the 30th day of June, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

REVIEWED

LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution Supporting Bend's Urban Renewal Agency's Selection of Option 3 for Collection of Tax Increment Revenues for Bend's Urban Renewal Area. *

RESOLUTION NO. 98-070

WHEREAS, Measure 50, adopted by Oregon votes in 1997, set out three options for collection of tax increment revenues, as set forth in Oregon Revised Statues 457.435; and

WHEREAS, as required by ORS 457.437, the Bend Development Board, the Urban Renewal Agency for the City of Bend, consulted with the Bend City Council regarding selection of an option for collection of tax increment revenues; and

WHEREAS, the Bend Development Board recommended to the Bend City Council the use of Option Three for Bends Urban Renewal Area; and

WHEREAS, of the three options for collection of tax increment revenues, Option Three results in additional tax revenue to overlapping tax in jurisdictions in a like manner to other development within the City; and

WHEREAS, the Deschutes County Commissioners concur with the Bend Development Board that Option Three is a reasonable and prudent selection for collection of tax increment revenues.

THE BOARD OF COUNTY COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

Section 1. The Board hereby supports the use of Option Three for collection of tax increment revenues for Bend's Urban Renewal Area.

Section 2. The Board hereby acknowledges that the maximum indebtedness for Bend Urban Renewal Area will be $21,543,923.

DATED this 10th day of June, 1998, by the Deschutes County Board of Commissioners.

Nancy Pope Schlangen, Chair

Robert L. Nipper, Commissioner

Linda L. Swearingen, Commissioner

ATTEST:

Recording Secretary

ORDINANCE NO. NS-1700

AN ORDINANCE IMPOSING A LIMITATION ON SIGNS ORIENTED TOWARDS THE BEND PARKWAY; AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The City of Bend Sign Code shall be amended by adding the following limitations, in a new Section 8.005.

> **8.005 Limitation. No sign permits for outdoor advertising signs or ground mounted signs which are mounted on poles shall be issued pursuant to the City of Bend Sign Code, nor shall any such signs be installed, which are oriented toward the Bend Parkway, within a distance of two-hundred feet from each side of the Bend Parkway right-of-way. This limitation shall be for a period of six months from the effective date of this ordinance, or until a new sign code regulating these signs is adopted, whichever happens first. A sign shall be considered as oriented toward the Bend Parkway if it would have not have been installed but for the potential of display to, and viewing from, traffic on the Bend Parkway.**

Section 2. The existing regulations of the City of Bend Sign Code were developed prior to the construction of the Bend Parkway; and these regulations do not adequately deal with the new sign regulation situation presented by the Bend Parkway. Because signs oriented toward the Bend Parkway have been installed along portions of the Parkway that have been opened to public travel, it is necessary and desirable for the protection of the public health, safety and welfare to not permit any signs described in this amendment until there is an opportunity to review the kind of sign regulation that will be required by this new situation, and develop whatever regulations are necessary to provide whatever sign regulation is needed. Therefore an emergency is declared to exist, and this ordinance shall take effect immediately upon its passage.

Read for the first time this 17th day of June, 1998.

Read for the second time this 1st day of July, 1998.

Placed upon its passage this 1st day of July, 1998.

YES: 5 NO: 2

Authenticated by the Mayor this 1st day of July, 1998.

Rob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

Note: The lack of a unanimous vote nullifies the emergency clause.

ORDINANCE NO. NS-1701

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO CL, LIMITED COMMERCIAL

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the applicant's request, and has adopted FINDINGS, CONLUSIONS AND FINAL DECISION regarding the Resolution of Intent to Rezone No 1512.

Section 2. Section 7(1) of Ordinance No. NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the following described property from Urban Standard Density Residential (RS) to Limited Commercial (CL).

LEGAL DESCRIPTION

A parcel of land containing 22.0 acres, more or less, located in the Northeast Quarter of Section 29, Township 17 South, Range 12, East of the Willamette Meridian, Deschutes County, Oregon and being more particularly described as follows:

Commencing at the Northeast corner of said Section 29; thence South 89 degrees 02' 59" East along the North line of said Section 29, 1328.22 feet to the Northwest corner of the Northeast Quarter of the Northeast Quarter which is the "True Point of Beginning" of this description; thence North 89 degrees 02' 59" West along the North line of said Section 29, 550 feet, more or less, to the center of the Deschutes River and also being the boundary of the Bend Riverhouse Motel Property; thence continuing along said centerline, South 36 degrees 24' 58" East a distance of 290.00 feet, more or less; thence South 30 degrees 00' 00" East a distance of 345.00 feet, more or less; thence South 04 degrees 00' 00" East a distance of 180.00 feet, more or less, thence South 21 degrees 00' 00" West a distance of 450.00 feet, more or less; thence South 39 degrees 00' 00" West a distance of 200.00 feet more or less; thence South 22 degrees 00' 00" West a distance of 250.00 feet, more or less; thence West a distance of 95.00 feet, more or less; thence south 03 degrees 25' 50" West, a distance of 180.3 feet, more or less; thence South 02 degrees 55' 50" East a distance of 180.3 feet, more or less; thence East a distance of 195.0 feet, more or less; thence South 30 degrees 00' 00" West a distance of 270.00 feet, more or less; thence South 75 degrees 00' 00" West a distance of 200.00 feet, more or less; thence North 84 degrees 00' 00" West a distance of 500.00 feet, more or less to a point which is located South 05 degrees 24' 11" West, 2131.01 feet from the True Point of Beginning; thence leaving said centerline of the Deschutes River, North 08 degrees 00' 00" West a distance of 113.00 feet; thence North 42 degrees 00' 00" East a distance of 217.00 feet; thence South 80 degrees 00' 00" East a distance of 222.00 feet; thence North 01 degrees 00' 00" East a distance of 605.00 feet; thence North 33 degrees 00' 00" East a distance of 590.00 feet; thence North 23 degrees 00' 00" West, a distance of 240.00 feet; thence North 18 degrees 00' 00" East a distance of 287.00 feet; thence North 58 degrees 15' 47" West, a distance of 557.63 feet, to the Point of Beginning and terminus of this description.

Read for the first time the 17th day of June, 1998.

Read for the second time the 1st day of July, 1998.

Placed upon its passage the 1st day of July, 1998.

YES: 5 NO: 2

Authenticated by the Mayor the 1st day of July, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

FINDINGS, CONCLUSIONS AND FINAL DECISION

River's Edge Partnership – Resolution of Intent to Rezone

CITY FILE NO. 97-162, Z-1-80/C-4-80

The City Council makes the following FINDINGS OF FACT:

Introduction

The applicant, Clyde Purcell and River's Edge Partnership requested a plan amendment/zone change from RS Urban Standard Residential to CH Highway Commercial; a zone change from RS to CH; a preliminary site plan approval for a motel/convention center complex and condominiums; and, a conditional use permit for a Planned Unit Development (PUD) for condominiums on a total of 148.8 acres, in 1980. Only 23.38 acres were proposed for the plan amendment/zone change. The Planning Commission found that the applicant met all of the required criteria for the proposed plan amendment/zone change and recommended approval of the applicant's request on January 1, 1980. The City of Bend Commission reviewed the matter on April 16, 1980 and unanimously approved the applicant's request by adopting a Resolution of Intent to Rezone. This land use decision was not appealed.

Resolution of Intent to Rezone 1512 was adopted pursuant to the City's 1980 zoning ordinance. The resolution of intent to rezone provisions in 1980 were identical to the resolution of intent to rezone provisions in the City's zoning ordinance today. The resolution of intent to rezone provisions creates a binding commitment upon the City Council. The provisions state that upon compliance with the resolution by the applicant, the City Commission shall by ordinance effect such reclassification. The 1980 resolution of intent to rezone expresses the City's "general approval in principal of the proposed rezoning" and conditions the approval on the performance by the applicant of 13 conditions set out in the resolution. The applicant has relied upon the binding commitment of the City of Bend to rezone the property once the 13 conditions have been met.

Since 1980 the applicant has applied for 8 different land use applications on lands adjacent to the 23.38 rezone parcel. These included residential development, motel expansion, golf course, variances and road development. These applications were made in reliance on the resolution to rezone and the applicant planned on the property being rezoned once the conditions were met. Some of the conditions set out in Resolution 1512 were met as a result of the development since 1980.

The applicant put the development of the rezone property on hold until 1987 due to poor economic conditions. The developer began the golf course in 1987 and this recreational feature was contemplated by the original rezone request. The developer has not developed the 23.28 rezone parcel to date, except for a 2-acre portion near the southern edge of the parcel that contains part of the golf course development and is not subject to the rezoning application.

Resolution 1512 set out 13 conditions that the applicant was required to meet before the subject property would be rezoned. The applicant notified the City of Bend in 1997 that all of the conditions of the Resolution had been met. The applicant requested that the City Council review the matter and fulfill its previous commitment to rezone the property.

The City Council held a public hearing on March 4, 1998 to determine if the applicant had complied with the terms and conditions of Resolution 1512.

The City Council reviewed the supplemental staff report, issue summary and testimony given at the meeting by interested parties. The City Council considered the uses that could be developed if the property was rezoned to CH, Highway Commercial. The City Council determined that the more intensive uses allowed in the CH zone are not suitable for development on the rezone property. The Council determined that the uses allowed in the CL, Limited Commercial zone would be more appropriate. CL zoning is consistent with the zoning of the Riverhouse Resort, motel, and the applicant's plan to develop meeting rooms, resort recreation facilities and accessory resort uses. The applicant concurred.

The City Council decision now is to decide if the 13 conditions have been met. The findings below describe how the applicant met the terms and conditions of Resolution 1512.

The City Council specifically finds that the applicant has complied with all of the 13 terms and conditions as listed in Resolution 1512 and as described below:

1. The Owner shall provide the city with $25,000 for the City to use in commissioning a traffic and design study for that part of the City affected by this development. The city shall use these funds in its discretion to commission the study. In addition to providing the $25,000 for the study the Owner shall at the city's discretion either (1) install the improvements contemplated by the Butke report (prepared by Owner's traffic engineer) and pay all the costs of these improvements (presently estimated at $225,000) or (2) install whatever improvements are recommended by the report City Commissions with Owner's cost for the installation of these improvements to be limited to an amount equivalent to what the cost of the Butke improvements would

be.

The applicant provided the City with the $25,000 to commission a traffic and design study in order to determine the impact of the River's Edge development on street facilities in the area. The applicant then participated in the installation of the traffic signals at the intersection of Mt. Washington Drive and Highway 97. The applicants also improved and installed Mt. Washington Drive from the intersection at Highway 97 to the intersection at Awbrey Road. This improvement is complete and included the extension of water and sewer trunk lines.

2. The grade of the arterial street within the development shall not exceed 6% unless there are unavoidable conditions, then the grade shall not exceed 8%, as determined by the City Engineer.

The applicant hired civil engineers and worked with the City Engineer to develop the construction design for Mt. Washington Drive. The grade of the arterial street is 8.4% and was accepted by the City. Mt. Washington Drive was developed pursuant to the variances that were obtained in City file No. V-5-88 and concurrently with the River's Edge planned unit development.

3. The design shall incorporate public streets currently not developed to both parcels in the north and south.

The applicant designed and constructed streets in River's Edge Phase 4 that provide access from Mt. Washington Drive, Todd's Crest Drive and Awbrey Street, which is a connection to Summit Drive. These are public streets.

4. That all public streets within the development meet the criteria of Section 4 of the City's Subdivision Ordinance.

All public streets that have been developed within the entire 148.80-acre project meet the criteria in the Subdivision Ordinance and are built to City of Bend standards and specifications. Any public streets built within the 22-acre rezone area and will require City approval and must meet the current City Standards and Specifications.

5. That the developer shall widen the bridge to meet minimum standards for arterial width, if it should be approved as the only access to the site.

Mt. Washington is not the only access to the site. Summit Drive and Todd's Crest Drive also access the site. However, the applicant has paid funds to the City for mitigation of traffic impacts and to establish a fund for the future construction of the Mt. Washington Bridge.

6. The developer shall agree to install traffic signal according to the specifications of the State Highway Division.

The traffic signals have been installed. This was a joint project involving the applicant and ODOT.

7. Plans shall be submitted to handle storm drainage taking into consideration the total drainage basin. The necessary drainage facilities to handle the total basin shall be installed now, or accommodations made that will allow them to be installed when further uphill development occurs; such as easements and installation of any pipe under roads to be paved at this time.

Storm drainage plans were developed by the applicant, approved by the City Engineer and installed pursuant to the site plan approval for the golf course, pro-shop and development of River's Edge Phases 1,2,3,and 4.

8. The plan shall be redesigned to provide better circulation to the cul-de-sacs on the north side of the arterial.

The applicant developed the River's Edge Subdivision with a through street from Clubhouse Drive to Golf View Drive from Phase 2 and 3. The design and construction were approved and accepted by the City of Bend.

9. A public trail shall be dedicated through the project along the irrigation canal and 8% of the land area shall be dedicated as parkland. This would take the form of the trail and a dedication of frontage along the river from the dam north.

The City of Bend has verified that a recorded deed, Volume 349, Page 1866, Deed Records, Deschutes County, Oregon, was signed in 1988 by the applicant in satisfaction of this condition. This deed is evidence that two public trails have been dedicated to the Bend Metro Parks District. One trail is adjacent to the canal for part of its length and was jointly developed and constructed by the applicant and the park district. This trail is in active use today and is commonly referred to as the RiverRun trail. This trail is dedicated through the applicant's property from the terminus of the river trail at the south end of the applicant's property, follows the canal just to the terminus of Golf Course Drive and then climbs up the slope to meet with Mt. Washington Drive. The trail then follows Mt. Washington Drive east to Club House Drive and then proceeds north through the applicant's property to Sawyer Park.

The deed also describes the second trail as a 15-foot wide path extending from the river dam north to Mt. Washington Drive. The Bend Metro Parks District Executive Director, Carrie Whitaker, has reviewed the deed, the trail locations and is satisfied with the dedications.

10. The developer shall provide all required off-street parking.

The applicant has provided all required off-street parking for each project developed on the applicant's property, so far. The applicant will be required to provide off-street parking for any additional projects as they develop on the property according to City of Bend rules and regulations.

11. The developer shall pay to the City a bond for 110% of the estimated cost of all public improvements.

Bonds are typically required when the developer desires to record a plat before constructing the public improvements. In this case, the developer has installed all required public improvements. The record did not contain evidence of a bond because the developer installed the public improvements prior to final plat approval. In any event, the public improvements have been approved and accepted by the City of Bend. Any public improvements proposed on the rezone property will be required to be installed or bonded before final City approval.

12. The developer shall provide to the City a copy of an agreement between the developer and the Tumalo Irrigation District providing protection and prevention of access to the open canal.

This condition applies to development adjacent to the rezone property. The developer and the Tumalo Irrigation District have worked together on previous development proposals that were completed on property adjacent to the canal. The developer and the Tumalo Irrigation District agreed to allow use of the canal road for the River Run trail system, and the developer fenced portions of the canal adjacent to this to protect pedestrians. There is no direct application of the condition to the rezone property because the canal is over 250 feet away from the property. Tumalo Irrigation District has submitted a letter dated May 11, 1998 indicating that it has completed its review of the matter and is satisfied that the applicant is in compliance with the condition.

13. Sufficient right-of-way shall be conveyed to the City or a street dedicated for public use so as to permit ingress and egress to this property across the river at a point that does not directly connect to Highway 97. The exact location of this new access across the river shall be determined by City.

The applicant has submitted a deed for dedication of ROW that has been reviewed and accepted by the City.

The City Council makes the following CONCLUSIONS:

1. The City Council specifically concludes that the applicant has completed the requirements of the Resolution of Intent to Rezone during the period of time from 1980 to June, 1998. Compliance by the applicant was achieved, in part, through completed conditions of approval in connection with other development within the River's Edge planned unit development.

2. The City Council specifically concludes that the proposed rezone is consistent with the commercial designation shown on the adopted Comprehensive Plan.

3. The City Council specifically concludes that the more intensive commercial uses allowed in the CH, Highway Commercial will not be desirable if developed on the rezone property and that the uses allowed in the CL, Limited Commercial are more suitable. The City Council concludes that it is more appropriate to rezone to CL, which is consistent with the existing zoning and the Riverhouse Resort.

The City Council makes the following FINAL DECISION:

The City shall rezone the applicant's property to CL, Limited Commercial. Development must comply with all current City of Bend land use regulations, rules, and policies in effect at the time the applicant applies for development approval.

This decision shall not have any precedential effect beyond the specific facts of this situation.

DATED: Patricia S. Sta, 1998

Bob Woodward
Mayor, City of Bend

This decision of the City Council shall be final upon the mailing date indicated below. Review of the City Council's decision on this matter must be commenced by filing a Notice of Intent to Appeal with the Land Use Board of Appeals not later than 21 days after the mailing of this decision.

Mailing Date: _____, 1998

ORDINANCE NO. NS-1702

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY MODIFIYING SECTION 25 (10) AND SECTION 9 BY ADDING NEW ZONES IN COMPLIANCE WITH THE URBAN AREA MANAGEMENT AND TRANSISTION AGREEMENT

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the necessity to modify the zoning ordinance in order to comply with the Urban Area Management and Transition Agreement, and has considered the Planning Commission recommendation regarding this request.

Section 2. Section 25(10) of Zoning Ordinance No. NS-1178 is hereby amended to read:

(10) Mines, Quarries, Gravel Pits or Gravel Removal Sites. **Except as allowed within the SM, Surface Mining zone,** extractions from deposits of rock, stone, gravel, sand, earth, minerals, or building or construction materials shall not be construed to be a permitted use in any zone of this ordinance unless a Conditional Use Permit shall first have been obtained as provided in Section 29 except for on-site excavation and grading in conjunction with a specific construction or improvement project. The Hearings Body shall have power to grant Conditional Use Permits, which are valid for a specified period of time or are revocable, to permit extractions from deposits of rock, stone, gravel, sand, earth, minerals, or building or construction materials. Odors, dust, noise or drainage shall not be permitted to create or become a nuisance to surrounding property.

Section 3. Section 9 of Zoning Ordinance No. NS-1178 is hereby amended by adding the following:

Section 9B. Surface Mining Zone or SM.

(1) Purpose. The purpose of the Surface Mining Zone is to allow the extraction of surface mining materials needed by the community while protecting the health and safety of adjoining residents and uses.

(2) Permitted Uses. In the SM Zone, the following uses and their accessory uses are permitted outright subject to the provisions of this chapter:

(a) Extraction of all materials, sand, gravel, rock, cinders, pumice, topsoil, fill material (including select fill) and any other mineral or aggregate material.

(b) Crushing, processing, washing and sizing located at least one-half mile from a residential area.

(c) Caretaker's residence.

(d) Buildings, structures, apparatus, equipment and appurtenances necessary for these uses to be carried on.

(e) Sale of products produced from the site.

(3) Conditional Uses. In a SM Zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions subject to Section 29.

(a) Ore smelter using materials from the site subject to stringent pollution controls.

(b) Crushing, processing, washing and sizing when located within one-half mile of a residential dwelling.

(c) Other related activities using materials found primarily on the site, such as concrete batching plants and mineral refining plants, when within one-half mile of a residential dwelling.

(d) Landfills when a written tentative approval by DEQ is submitted with the conditional use application.

(e) Utility facility.

(f) Hydroelectric facility, in accordance with Section 25(20) of this ordinance.

(4) Dimensional Standards. In a SM zone, the following dimensional standard shall apply:

(a) The minimum lot size shall be as determined by the Planning Director to be necessary for the protection of the public health, safety and welfare.

(5) Use Setback.

(a) Uses within a SM zone shall maintain a 100 foot setback from the property line when adjacent to a residential dwelling.

(b) Three hundred foot setback shall be maintained from the property lines adjoining roads that are in Landscape Management Areas as defined in the Comprehensive Plan, as well as from any stream or lake.

(c) Solar Setback. The solar setback shall be as prescribed in this ordinance.

(6) Site Plan Review. In a SM Zone, a use permitted outright or a conditional use shall be subject to the provisions of Section 23. Before development of any new site or expansion of any existing site beyond the area covered by an existing state or county permit may begin after the effective date of this ordinance, a site plan shall be approved by the Planning Director. Construction and development of the site shall be in full conformance with the approved site plan.

(7) Site Plan Requirements. A site plan shall provide for the following:

(a) A reclamation plan, meeting guidelines and in a format established by the city and satisfying such additional standards as are set forth herein.

(b) A maintenance program. All buildings, structures and equipment used for the production and processing of minerals and other materials affected by this title shall be maintained in such a manner as to assure that such buildings, structures and equipment will not become dilapidated or hazardous. The reclamation plan shall also address disposition of buildings, structures and equipment used in production and processing of minerals and other materials, offices, storage garage and watchman's house or any remains thereof.

(c) Air, water and noise requirements. Air and water quality and noise level shall be in accordance with the requirements of state and federal laws and regulations and City ordinances.

(d) A complete description of all planned uses.

(e) The Planning Director may require the following at the time of site plan approval:

1. An increase or decrease in required setbacks.

2. **Screening of the proposed use, or parts thereof, by fencing or landscaping.**

3. **Limitations on lighting.**

4. **An adequate plan for phased mining and reclamation of the site.**

5. **Restrictions on the hours, days and noise levels of operation.**

6. **Applicants may be required to provide dust-free site access roads near residential areas.**

7. **When SM operations meet the criteria for conflict levels III or IV as specified below, the Planning Director may, in addition, place more stringent criteria upon the operations in accordance with this ordinance**

8. **Adequate water supplies to enable landscaping reclamation and dust control conditions are to be met.**

(8) **Special requirements relating to residential areas.**

(a) **Unless the applicant can show that the natural topography of the site offers sufficient screening of the site from public view, the exposed side of the operation shall be screened with landscaped berms, hedges, walls, fences or similar devices to effectively screen the site from the public.**

(b) **If necessary, during the site plan review, the Planning Director may determine that meeting screening requirements is not economically feasible or physically possible.**

(c) **When an unusually high level of conflict exists off-site, stock piling and/or processing may be required.**

(9) **Procedure upon filing of site plan.**

(a) **Each application and site plan shall be reviewed by the Planning Director for conformance with this ordinance and the Comprehensive Plan. The director shall transmit the application to affected agencies for their review.**

(b) **Following receipt of the application, the Planning Director shall notify, in writing, the applicant and persons and agencies entitled to written notice as defined in Procedural Ordinance No. NS-1556. The Planning Director may hold a meeting with affected persons and the applicant to discuss the proposed plan before making his decision or only request written comments to be submitted. The entire process leading to a decision shall not exceed 45 days.**

(c) **If, after the Planning Director renders his decision, the applicant or affected persons feels it necessary, the applicant or affected person may appeal the decision to the Hearings Officer. If such a decision is referred to the Hearings Officer, he may at his discretion, either hold a public hearing and call for public testimony, or he may determine the case without open public testimony and hearing by weighing the evidence as presented by the Planning Director and the applicant and then making a decision. In either case, the procedure before the Hearings Officer shall follow the applicable portions of the Procedural Ordinance No. NS-1556. The Hearings Officer's decision may be appealed.**

(d) **Hearings Officer review, which shall occur when the site is submitted with a proposed zone change, shall follow in accordance with Procedural Ordinance No. NS-1556.**

(e) **The Planning Director's and/or Hearings Officer's decision shall be based on the impact of the proposed use on nearby uses of land, the impact of traffic on affected streets and roads and the economic, social and environmental impact on the community.**

(f) **The Planning Director and/or Hearings Officer shall approve a site plan only if in conformance with all applicable regulations, this ordinance and the Comprehensive Plan.**

(10) **Approval of Site Plan.**

(a) **A site plan final approval shall expire 12 months from the date of approval unless the project has commenced in accordance with the approved site and reclamation plans. Upon petition by the original applicant showing good cause, an extension for an additional 12 months may be granted by the Planning Director. The operating approval shall be valid for a period of time specified by the reclamation plan, except as otherwise limited therein.**

(b) **The Planning Director or his designate shall review each site plan approval annually. A reasonable fee for this inspection shall be paid to the City by the permittee. Unless a violation of the site plan or obvious health or safety hazard is found, the permit shall be renewed. The Planning Director's decision may be appealed.**

(11) **Bond. A bond or security deposit shall be required of all applicants sufficient to cover costs plus10% of necessary road improvements, berming, reclamation, landscaping and other pertinent conditions.**

(12) **Failure to comply.**

(a) **If the Planning Director determines that the permittee is not in compliance with the site plan, he may institute enforcement proceedings to require such compliance. Enforcement may include citing the permittee to District Court, injunctive proceedings or enforcement of the bond provisions.**

(b) **If a permittee fails to faithfully perform the reclamation required by his reclamation plan, or if the bond or security deposit required by Section 11 is not sufficient to compensate the county for all reasonable necessary expenses incurred by it in performing the reclamation plan, the amount due shall be a lien upon all property, whether real or personal, owned by the permittee.**

(13) **Exceptions. This section shall not apply to the following:**

(a) **Excavation or grading operations conducted in the process of farming or cemetery operations.**

(b) **Mineral and aggregate activities when assumed by the Oregon Division of State Lands pursuant to ORS Chapter 541.605 through 541.660.**

(c) **Dredging mineral and aggregate materials administered by Oregon Division of State Lands pursuant to ORS Chapter 517.611 through 517.700.**

(d) **Nothing herein shall be construed to supersede the provision of the Forest Practices Act (ORS 527.610 through 527.730), as amended by Chapter 400, Section I of Oregon Laws of 1979 and regulations thereunder which preempt city law.**

(14) SM nonconforming uses. This title shall not apply to uses having a valid state permit upon the date of adoption of this ordinance. Expansion of existing uses beyond the area covered by state or city permit shall be consistent with this title.

Section 9C. Suburban Low Density Residential Zone or SR 2 1/2

(1) Purpose. To accommodate existing SR 2½ zoned lands within the Urban Growth Boundary until these lands are annexed to the City or until sewer service is available, and such lands are rezoned consistent with the planned densities and uses in the Bend Area General Plan.

(2) Permitted Uses. The following uses are permitted:

(a) Single-family dwelling.

(b) Agriculture, excluding the keeping of livestock.

(c) Home occupations subject to Section 25 (15).

(d) Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.

(3) Conditional Uses. The following conditional uses may be permitted subject to a conditional use permit as provided in Section 29.

(a) Churches subject to Section 25 (4).

(b) Cemeteries and mausoleums, crematories, columbariums and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential district.

(c) Community buildings, lodge and fraternal organizations, except those carried on as a business for profit.

(d) Public, parochial and private schools, including nursery schools, kindergartens and day nurseries; but not including business, dancing, trade, technical or similar schools.

(e) Parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair years, warehouses or similar uses.

(f) Recreation facilities, public or private, but not including such intensive commercial recreation uses as a racetrack or amusement park.

(g) Utility substations or pumping stations with no equipment storage and sewage treatment facilities.

(h) Keeping of livestock subject to Section 25 (7).

(i) Kennel or commercial riding stable subject to Section 25 (2).

(j) Planned unit development subject to the provisions of Section 30.

(k) Plant nurseries subject to Section 25 (19).

(l) Hydroelectric facility subject to Section 25 (20).

(m) Time share unit subject to Section 25 (23).

(4) Height Regulations. No building or structure shall hereafter be erected, enlarged or structurally altered to exceed 30 feet in height.

(5) Lot Requirements. The following lot requirements shall be observed:

(a) Lot Area. Each lot shall have a minimum area of 2.5 acres.

(b) Lot Width. Each lot shall be a minimum width of 200 feet.

(c) Front Yard. The front yard shall be a minimum of 40 feet.

(d) Side Yard. There shall be a minimum side yard on each side of a building of not less than 10 feet.

(e) Rear Yard. There shall be a rear yard having a depth of not less than 20 feet.

(f) Solar Setback. The solar setback shall be as prescribed in this ordinance.

(6) Land Divisions.

(a) For subdivisions, residential planned unit development, or land partitions resulting in more that two lots, the following standards shall apply in addition to the requirements of Subdivision Ordinance No. NS-1349.

1. Lot size.

(A) The minimum lot size for single-family residential uses shall be 2.5 acres.

(B) For residential planned unit developments, lot sizes shall be consistent with a minimum housing density of 0.1 units per acres and a maximum density of 0.4 units per acres.

2. Lot Layout. The location of lot lines shall not significantly reduce feasible options for the future locations of streets, or utility services, or preclude development options on the subject property or adjacent properties.

3. Street Improvements. On-site street right of way sufficient to meet design standards required by the Transportation Plan shall be dedicated.

4. Sewer. All new lots shall be connected to a Department of Environmental Quality-permitted community or municipal sewer system.

(A) Connection of the lots to sewer shall be a condition of tentative plan approval. Unless required sewer improvements are bonded, sewer must be brought to the property line of each lot before the final plat can be approved. In instances where the sewer improvements are bonded, no building permits shall be issued until all sewer improvements have been made.

(B) For partitions resulting in two lots, the following standards and criteria shall apply in addition to and notwithstanding any requirements of Subdivision Ordinance No. NS-1349:

1. Partition Configuration.

a. **A two-lot partition shall consist of a segregated lot and a larger parent lot.**

b. **The segregated lot shall be no larger than 2.5 acres, unless additional area is required to accommodate an existing or proposed use, in which case the area shall be as small as possible to accommodate the use.**

i. **In determining that the lot is as small as possible, consideration shall be limited to the area necessary for subsurface sewage disposal and reserve area, residential and accessory development, required setbacks and any land necessary to accommodate allowable expansion of the use.**

2. **Layout of lots. The location of lot lines shall not significantly reduce feasible options for the future locations of streets, or utility services, or preclude development options on the subject or adjacent properties.**

3. **Street improvements.**

a. **Dedication of on-site street right of way sufficient to meet design standards required by the Transportation Plan shall be required.**

b. **Except as otherwise allowed in subsections i,ii, and iii herein street frontage on lots shall be improved as set forth in NS 1349.**

i. **Where both the parent and segregated lot are occupied by existing development, no additional street improvements are required.**

ii. **Where one of the two lots is developed, the street need not be brought up to urban standards at the time of partition. The undeveloped lot shall be subject to a development agreement in a form satisfactory to the City requiring that the street fronting both lots resulting from the partition be improved to urban standards. This agreement shall be entered into with the City of Bend and recorded at the same time as the recording of the final plan. Such improvements must be made prior to the issuance of a building permit on the undeveloped lot.**

iii. **Where both lots are undeveloped at the time of partition, one lot shall be subject to the development agreement described in Subsection (ii) above.**

c. **A recorded nonremonstrance agreement in a form satisfactory to the City for future road or**

drainage improvements within the right of way abutting the parcels shall be required.

4. Sewage

a. Pursuant to DEQ rules, new development and existing nonresidential development shall be served by sewer when sewer is available.

i. Sewer is considered available if a sewer line is within 300 feet of a lot line of the parent lot unless there are topographic or man-made features which make connection physically impractical or the sewer provider determines that the sewer connection can be deferred.

b. Where an existing residence is served by a septic system and drainfield, a sewer agreement in a form prepared by the City of Bend shall be executes with the city requiring hookup to the sewer system when sewer becomes available.

c. For undeveloped lots where sewer is not available, a sewer agreement shall be executed on a form prepared by the City of Bend setting forth the terms and conditions under which sewer services will be provided when sewer becomes available.

5. The property owner shall execute a consent to annexation to the City of Bend for the land area covered by the partition on a form prepared by the city, which form shall be recorded in the Deschutes County deed records no later than the time the plat is recorded.

6. A restrictive covenant shall be recorded for each lot in conjunction with the final plat that prohibits further division of those lots until the parcel can be served by DEQ-permitted community or municipal sewer system and urban standard roads.

(7) Off-Street Parking. Off-street shall be provided as required in Section 24.

Section 9D. Urban Low Density Residential Zone or RL

(1) Purpose. The RL zone is intended to provide large urban lots for development with a community water system and DEQ permitted community or municipal sewer systems.

(2) Permitted Uses. The following uses are permitted:

(a) Single-family dwelling.

(b) Agriculture, excluding the keeping of livestock.

(c) Home occupations subject to the provisions of Section 25 (15).

(d) **Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to Section 27 (2).**

(3) **Conditional Uses. The following conditional uses may be permitted subject to a conditional use permit and the provision of Section 29.**

(a) **Churches**

(b) **Cemeteries and mausoleums, crematories, columbariums and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential zone. Subject to Section 25 (3).**

(c) **Public, parochial and private schools, including nursery schools, kindergartens and day nurseries; excluding business, dancing, trade, technical or similar schools.**

(d) **Parks and recreation facilities, fire stations, libraries, and museums; but not including storage or repair yards, warehouses or similar uses.**

(e) **Recreation facilities, including country clubs, golf courses, swimming clubs, tennis clubs; but not including such intensive commercial recreation uses as a racetrack or amusement park.**

(f) **Utility substations or pumping stations with no equipment storage or sewage treatment facilities.**

(g) **Planned unit developments subject to provisions of Section 30.**

(h) **Temporary subdivision tract offices.**

(i) **Lodge and fraternal organizations, except those carried on as a business for profit.**

(j) **Keeping of livestock subject to Section 25 (7)**

(k) **Moving in a single-family dwelling built prior to January 1, 1961.**

(l) **Manufactured home park.**

(m) **Duplex on a lot of 40,000 square feet or larger.**

(n) **Plant nurseries subject to Section 25 (19)**

(o) **Time share unit or the creation thereof, subject to Section 25 (23).**

(p) **Hydroelectric facility subject to the provisions of Section 25 (20).**

(3) **Height Regulations.**
No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 30 feet in height.

(4) **Lot Requirements.**
The following lot requirements shall be observed, provided that the Hearings Body or Planning Director may allow smaller lots or different housing types in a new subdivision approved pursuant to this title and consistent with the Comprehensive Plan designation for preservation of forested areas or significant rock outcroppings when these lots are internal to the subdivision or after hearing if they are located on the edge of the new plat.

(a) **Lot. Area. Every lot shall have a minimum area of 20,000 square feet.**

(b) **Lot Width. Every lot shall have a minimum average width of 100 feet.**

(c) **Frontage: Every lot shall have a minimum width at the street of 50 feet, except that on an approved cul-de-sac this may be reduced to 30 feet.**

(d) **Front Yard. The front yard shall be a minimum of 30 feet.**

(e) **Side Yard. A side yard shall be a minimum of five feet and the sum of the two side yards shall be a minimum of 15 feet.**

(f) **Rear Yard. The rear yard shall be a minimum of 20 feet.**

(g) **Lot Coverage. Maximum lot coverage by buildings and structures shall be 35 percent of the lot area.**

(h) **Solar Setback. The solar setback shall be as prescribed in Section 26 A.**

(5) **Land Divisions.**

(a) **For subdivisions, residential planned unit developments, or land partitions resulting in more than two lots, the following standards shall apply in addition to the requirements of Ordinance No. NS-1349:**

1. **Lot size.**

a. **The minimum lot size for single family residential uses shall be 20,000 square feet and the maximum single family residential lot size shall be 40,000 square feet.**

b. **For residential planned unit developments, lot sizes shall be consistent with a minimum housing density of 1.1 units per acre and a maximum density of 2.2 units per acres.**

2. **Lot Layout. The location of lot lines shall not significantly reduce feasible options for the future locations of streets, or utility services, or preclude development options on the subject property or adjacent properties.**

3. **Street Improvements. On-site street right of way sufficient to meet design standards required by the Transportation Plan shall be dedicated.**

4. **Sewer. All new lots shall be connected to a Department of Environmental Quality-permitted community or municipal sewer system.**

a. **Connection of the lots to sewer shall be a condition of tentative plat approval. Unless required sewer improvements are bonded, sewer must be brought to the property line of each lot before the final plan can be approved. In instances where the sewer improvements are bonded, no building permits shall be issued until all sewer improvements have been made.**

b. **For partitions resulting in two lots the following standards and criteria shall apply in addition to and notwithstanding any requirements of Ordinance No. NS-1349.**

1. **Partition Configuration.**

a. **A two-lot partition shall consist of a segregated lot and a larger parent lot.**

b. **The segregated lot shall be no larger than 40,000 square feet, unless additional area is required to accommodate an existing or proposed use, in which case the area shall be as small as possible to accommodate the use.**

i. **In determining that the lot is as small as possible, consideration shall be limited to the area necessary for subsurface sewage disposal and reserve area, residential and accessory development, required setbacks and any land necessary to accommodate allowable expansion of the use.**

c. **A parent lot greater than 40,000 square feet and less than 5 acres in size requires a redevelopment plan. The redevelopment plan shall demonstrate that consistent with the requirements of Ordinance No. NS-1349, it is feasible for the lot to accommodate future subdivisions at the average density proposed in the Comprehensive Plan (2.2 units per acre).**

i. **The redevelopment plan shall consist of a map showing proposed lots or building envelopes and roads to serve those lots or building envelopes and of restrictive covenants incorporating the redevelopment map and restricting further development of the parent parcel except in conformance with the redevelopment map.**

ii. **The restrictive covenant shall be recorded in the Deschutes County deed records in conjunction with the recording of the partition plat.**

2. **Layout of lots. The location of lot lines shall not significantly reduce feasible options for the future locations of streets or utility services, or preclude development options on the subject or adjacent properties.**

3. **Street improvements.**

a. **Dedication of on-site street right of way sufficient to meet design standards required by the Transportation Plan shall be required.**

b. **Except as otherwise allowed in Subsection (b)(i), (B)(ii) and (b)(iii) herein, streets fronting on the lots shall be improved to urban standards, as set forth in NS 1349.**

i. **Where both the parent and segregated lot are occupied by existing development, no**

additional street improvements are required.

ii. Where one of the two lots is developed, the street need not be brought up to urban standards at the time of partition. The undeveloped lot shall be subject to a development agreement in a form satisfactory to the City requiring that the street fronting both lots resulting from the partition be improved to urban standards. This agreement shall be entered into with the county and recorded at the same time as the recording of the final plat. Such improvements must be made prior to the issuance of a building permit on the undeveloped lot.

iii. Where both lots are undeveloped at the time of partition, one lot shall be subject tot he development agreement described in Subsection (ii) above.

c. A recorded nonremonstrance agreement in a form satisfactory to the City, for future road or drainage improvements within the right of way abutting the parcels shall be required.

4. Sewage.

a. Pursuant to DEQ rules, new development and existing nonresidential development shall be served by sewer when sewer is available.

1. Sewer is considered available if a sewer line is within 300 feet of a lot line of the parent lot unless there are topographic or man-made features which make connection physically impractical or the sewer provider determines that the sewer connection can be deferred.

b. Where an existing residence is served by a septic system and drainfield, a sewer agreement in a form prepared by the City of Bend shall be executed with the city requiring hookup to the sewer system when sewer becomes available.

c. For undeveloped lots where sewer is not available, a sewer agreement shall be executed on a form prepared by the City of Bend setting forth the terms and conditions under which sewer services will be provided when sewer becomes available.

5. The property owner shall execute a consent to annexation to the City of Bend for the land area covered by the partition on a form prepared by the city, which form shall be recorded in the Deschutes County deed records no later than the time the plat is recorded.

6. **A restrictive covenant shall be recorded for each lot in conjunction with the final plat that prohibits further division of those lots until the parcel can be served by DEQ-permitted community or municipal sewer system and urban standard road.**

(7) Off-Street Parking. Off-street parking shall be provided as required in Section 24.

Read for the first time the 1st day of July, 1998.

Read for the second time the 15th day of July, 1998.

Placed upon its passage the 15th day of July, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 15th day of July, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1703

AN ORDINANCE AMENDING THE PROCEDURE FOR NOMINATING CANDIDATES FOR CITY COUNCIL IN 1998.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 1.270 is amended to read:

1.270
Nomination of Candidates for City Council

(1) Candidates for the City Councilor positions to be filled at the 1998 general election may be nominated for those offices by filing a declaration of candidacy as provided by State law.

(2) After the 1998 general election, [C] candidates for City Councilor can only be nominated for that office by filing a nominating petition; and may not be nominated by filing a declaration of candidacy. The requirements of the nominating petition, and the procedures for filing it, shall be as provided by State Law except that the nominating petition shall contain at least 150 signatures of electors within the City of Bend.

Section 2. It has just been discovered that all of the candidates for the City Councilor positions to be filled at the 1998 general election have circulated petitions prior to complying with certain requirements of State Law. Because this non-compliance may raise a question about the validity of their nominations, and because it may not be practicable to re-circulate all of these petitions for collection of the required signatures prior to the August 25, 1998 filing date, it is necessary to permit nomination of candidates by declaration rather than by nominating petition for the 1998 election. Therefore, an emergency is declared to exist, and this ordinance shall take effect immediately upon its passage.

Read for the first time this 14th day of August, 1998.

Read for the second time this 25th day of August, 1998.

Placed upon its passage this 25th day of August, 1998.

YES: 6 NO: 0

Authenticated by the Mayor this 25th day of August, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1704

AN ORDINANCE REGULATING ALARMS AND PROVIDING PENALTIES FOR FALSE ALARMS, AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1.

The purpose of this ordinance is to require that users of alarms that summon City Police and Fire Department responses take responsibility for maintaining the reliability of their alarm systems in order to prevent unnecessary and expensive responses to false alarms.

SECTION 2.

Definitions. For purposes of this ordinance, the following terms mean:

"Alarm": Any electronic or other signal that requests, causes or is intended to cause a response by police, fire or emergency medical personnel; or Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which police, fire or medical personnel are expected to respond.

"False alarm": Any alarm eliciting a response by Police, Fire or emergency medical personnel when a situation requiring a response does not in fact exist.

"Owner": A person, firm, association, or corporation owning, in possession or control of any property that an alarm originates from.

"Chief of Police": The Chief of the Bend Police Department or his designee.

"Fire Chief": The Chief of the Bend Fire Department or his designee.

"Audible alarm": Any audible sound produced to signal activation of the alarm.

SECTION 3.

False Alarm Violation. There shall be a violation of this ordinance if more than one false alarm occurs at the same location within a 12 month period.

SECTION 4.

False Alarm Procedure. When a determination has been made by either the Police Chief or Fire Chief that a false alarm has happened, and has caused an unnecessary response by the City, the following procedure shall be followed:

First False Alarm: A written warning shall be issued to the alarm user informing user of the false alarm, and the procedures in this ordinance for dealing with false alarms.

Second False Alarm: A citation shall be issued to the alarm user for violation of this ordinance.

Third False Alarm: A citation shall be issued, and a letter warning the alarm user that if there is another false alarm the City Police or Fire Department will not respond to future alarms unless the alarm system is changed to prevent false alarms.

Fourth False Alarm: A citation shall be issued. In addition, the alarm user will receive notice that City Police or fire fighting forces will not respond to any future alarms until the alarm user has demonstrated to the satisfaction of the Police Chief or Fire Chief that the alarm system has been changed to prevent

future false alarms.

A violation of this ordinance is a class C infraction.

SECTION 5.

Silencing Audible Alarms. The audible feature of any alarm must automatically silence within five minutes of continuous sound from the alarm. If the audible portion is not silent after five minutes then City personnel responding to the alarm may take whatever steps are necessary to silence the alarm, including but not limited to dismantling or disconnecting the alarm.

SECTION 6.

Response to false alarms by City police and fire fighting forces has become a major problem which significantly interferes with the effective use of the City police and fire fighting forces. It is urgent that the provisions of this ordinance dealing with false alarms be put in place. Therefore an emergency is declared to exist, and this ordinance shall take effect immediately upon its passage.

Read for the first time this 16th day of September, 1998.

Read for the second time this 7th day of October, 1998.

Placed upon its passage this 7th day of October, 1998.

YES: 7 NO: 0

Authenticated by the Mayor this 7th day of October, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

98-55886

ORDINANCE NO. NS-1705

525 - 2541

AN ORDINANCE VACATING A PORTION OF SOUTHEAST AUNE STREET THAT LIES WITHIN NE 1/4 NE 1/4 OF SECTION 5, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council. on February 18, 1998 requesting that the following described area be vacated:

> A parcel of land lying in the NE 1/4, NE 1/4 of Section 5, Township 18 South, Range 12 East, W.M., in the City of Bend, Deschutes County, Oregon; the said parcel being that portion of Southeast Aune Street. The said parcel of land is described as follows:
>
> Beginning at a point on Southeasterly right of way line of Southeast Aune Street marked by a steel rod, said point being 480.99 feet South and 375.32 feet West of the Northeast corner of Section 5, Township 18 South, Range 12 East, W.M.; thence South 50° 22' 17" West along said right of way line 89.78 feet to a the true point of beginning; thence along said right of way line 214.95 feet to a point; thence North 13° 23' 59" West 44.59 feet to a point on the Northwesterly right of way line of Southeast Aune Street; thence North 50° 22' 17" East along said right of way line 156.64 feet to a point; thence South 83° 36' 38" East 55.59 feet to the true point of beginning.
>
> Bearings are based on Oregon Department of Transportation Survey. See Drawing No. 1A-22-18, dated July 1, 1993.
>
> The parcel of land to which this description applies contains 7,440 square feet, more or less.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 7th day of October, 1998, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of alley right of way located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

525 - 2542

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 7th day of October, 1998.

Read for the second time the 21st day of October, 1998.

Placed upon its passage the 21st day of October, 1998.

Yes: 6 No: 0

Authenticated by the Mayor the 21st day of October, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

STATE OF OREGON)
COUNTY OF DESCHUTES) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND RECORDER OF CONVEYANCES, IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS RECORDED THIS DAY:

98 DEC 10 PM 2:03

MARY SUE PENHOLLOW
COUNTY CLERK

BY. T. Moore DEPUTY

NO. 98-55886 FEE 15.00

DESCHUTES COUNTY OFFICIAL RECORDS

ORDINANCE NO. NS-1706

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RM, URBAN MEDIUM DENSITY RESIDENTIAL TO CC, CONVENIENCE COMMERCIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated September28, 1998, file number PZ-98-157.

Section 2. Section 7(1) of Ordinance NS-1 178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" from Urban Medium Density Residential (RM) to Convenience Commercial (CC).

Read for the first time the 21st day of October, 1998.

Read for the second time the 4th day of November, 1998.

Placed upon its passage the 4th day of November, 1998.

YES: 5 NO: 0 ABSTAIN: 1

Authenticated by the Mayor the 4th day of November, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

FINDINGS AND RECOMMENDATION OF
CITY OF BEND HEARINGS OFFICER

FILE NUMBER: 98-157

APPLICANT/
PROPERTY OWNER: Brooks Resources Corporation
296 S.W. Columbia Street
Bend, Oregon 97701

REQUEST: The applicant is requesting approval of a plan amendment and zone change on a 3.9-acre parcel located at the northwest corner of Shevlin Park Road and College Way in Bend. The request is to rezone 3.9 acres from RM, Urban Medium Density Residential, to CC, Convenience Commercial, and to change the plan designation of the property from Neighborhood Commercial to Convenience Commercial.

STAFF REVIEWER: Wendy Robinson, Associate Planner

HEARING DATE: August 20, 1998

RECORD CLOSED: August 21, 1998

I. APPLICABLE STANDARDS AND CRITERIA:

A. City of Bend Zoning Ordinance No. NS-1178, Chapter 10

*** Section 10-10.14, Convenience Commercial**
*** Section 10-10.33(2), Standards for Zone Change**

B. The Bend Area General Plan

C. City of Bend Ordinance NS-1556, Land Use Permit and Review Procedures

D. Oregon Administrative Rules, Chapter 660-12

E. Oregon Statewide Land Use Planning Goals

II. FINDINGS OF FACT:

A. Location: The subject property is located at the northwest corner of the intersection of Shevlin Park Road and College Way in northwest Bend, and is

further identified as a portion of Tax Lot 101 on Deschutes County Assessor's Map #17-12-31BA and a portion of Tax Lot 600 on Assessor's Map #17-12-32B.

B. **Zoning and Plan Designation:** The subject property is zoned Urban Medium Density Residential (RM) is designated Neighborhood Commercial (CN) on the Bend Area General Plan Map.

C. **Site Description:** The subject property is 3.9 acres in size and is part of a larger, 16.34-acre parcel owned by the applicant. The subject property is roughly triangular in shape and is bounded by College Way on the north and east, Shevlin Park Road on the south and west and by the remainder of the larger parcel on the northwest. The property is vacant, relatively level and covered with native grasses and brush.

D. **Surrounding Zoning and Land Uses:** To the east of the subject property across College Way is a parcel zoned Convenience Commercial (CC) and developed with a convenience store and gas station. To the south across Shevlin Park Road are lands zoned RM and Urban Standard Density Residential (RS) and developed with single- and multi-family dwellings and the Westside Church. To the north and west is an undeveloped parcel owned by the applicant and zoned RM. Further to the north are RS-zoned lands developed with single-family dwellings and Central Oregon Community College (COCC).

E. **Procedural History:** This application was submitted on June 18, 1998. The application was accepted as complete by letter dated July 21, 1998. This application is not subject to the 120-day period for issuance of a final local land use decision under ORS 215.428 because it involves a plan amendment. A public hearing on the application was held on August 20, 1998. At the public hearing, the Hearings Officer received testimony and evidence and left the written record open to August 21, 1998, for the submission of a supplemental staff report addressing the city's planned transportation facility improvements. That staff report was submitted on August 21, 1998, and the record closed on that date.

F. **Proposal:** The applicant is requesting approval of a zone change from RM to CC and a plan amendment from CN to CC. Included in the record is a proposed tentative subdivision plan for the entire 16.34-acre parcel including the subject property. The tentative plan proposes a total of 14 lots, of which all or part of 6 lots would be zoned CC and developed with commercial uses. The record indicates the proposed plan amendment and zone change are intended to conform the subject property's zoning with its commercial plan designation and to conform the plan designation to the requirements of the plan.

G. **Public/Private Agency Comments:** The City of Bend Planning Department sent notice of the proposed plan amendment and zone change to several city

departments. The record does not indicate whether any of these departments responded to the notices.

H. Public Notice and Comments: The Planning Department mailed individual written notice of the public hearing to the owners of record of all property located within 250 feet of the subject property. In addition, notice of the public hearing was published in the "Bend Bulletin" newspaper and the subject property was posted with a notice of land use action sign. As of the date the record closed the city had received no letters from members of the public in response to these notices. In addition, no members of the public testified at the public hearing.

III. CONCLUSIONS OF LAW:

A. Bend Area General Plan

Plan Amendments, Procedure (Page 69).

Plan changes shall be consistent with the goals, objectives, policies and statements of intent of the Plan, or these guidelines shall be first changed or amended to reflect new policies. An individual requesting a change shall demonstrate that the change is warranted due to changed conditions, a mistake, or other specific facts that demonstrate a public need and benefit for the change.

FINDINGS: The proposal's compliance with the goals, objectives, policies and statements of intent of the plan is discussed in the findings below. Discussion of the proposal's compliance with the remaining criteria in this plan policy follows.

1. Mistake. The subject property is zoned RM and designated CN. The record does not indicate why this residential zoning was adopted for property with a commercial plan designation which indicated the city's intent that the property be developed for neighborhood commercial uses. The record does indicate that when the subject property's CN plan designation was adopted the plan provided, as it does now, that neighborhood commercial areas would be limited to 20,000 square feet in size. At nearly 4 acres in size, the subject property substantially exceeds this limit. The record also indicates the parcel to the east of the subject property across College Way also is designated CN but is zoned CC and developed with CC-type uses. It appears this parcel also is larger than the 20,000 square foot limitation in the plan.

Although the record is not entirely clear on this point, the Hearings Officer finds for these reasons that a mistake was made when the subject property was designated CN and zoned RM. The city's apparent intent was that the property be developed with commercial uses, but given the property's size it should have been designated and zoned CC. I therefore

find the applicant has demonstrated a mistake warranting the proposed plan amendment to Convenience Commercial.

2. Changed Conditions. The Staff Report concluded the proposed plan amendment also is warranted by changed conditions consisting of the rapid residential development of the area surrounding the subject property. The Hearings Officer finds that while this development certainly has occurred it does not constitute changed conditions warranting the proposed plan amendment. I find this growth was contemplated and the need for commercial uses to serve residents in this area was recognized by the city when it designated both the subject property and the property to the east for commercial uses. However, since the provisions of the plan governing plan amendments require that the applicant only demonstrate one of the three circumstances justifying a plan amendment is present -- i.e., mistake, changed conditions or public need and benefit -- I find the applicant has met its burden by showing a mistake in the original plan designation and zoning.

2. Plan Goals and Policies (Pages 4-5).

FINDINGS: The Hearings Officer finds the following plan goals and policies are applicable to proposed plan amendment:

> **2. To provide a sound basis for urbanization by establishing proper relationships between residential, commercial, industrial and open land uses.**

FINDINGS: The Hearings Officer finds the proposed plan amendment is consistent with this plan policy because the subject property always has been designated for commercial development to serve the needs of neighborhood residents. I find the proposed plan amendment will maintain the existing relationships between commercial and residential uses in the surrounding area.

> **6. To provide a safe and coordinated transportation and circulation system to bring about the best relationships between places where people live, work, shop and play.**

FINDINGS: The traffic impacts from the proposed plan amendment are discussed in detail in the findings below. As discussed there, the Hearings Officer has serious concerns about traffic impacts from commercial development of the subject property. However, I have found the proposed zone change satisfies all applicable zone change criteria related to the provision of public services including transportation facilities. Therefore, based upon those findings, I find the proposed plan amendment is consistent with this plan policy.

3. General Policies and Recommendations (Pages 6-8)

1. **<u>Urban development</u> shall be encouraged in areas where urban services can be provided and in a manner which will minimize tax costs related to necessary urban services such as schools, parks, highways, police, garbage disposal, fire protection, libraries, and other facilities and services.**

FINDINGS: The Hearings Officer finds the proposed plan amendment is consistent with this policy because the subject property is served by city water and sewer and is located at the intersection of two urban-standard streets making commercial development at this site appropriate.

6. **<u>Commercial facilities</u> should be allocated in a reasonable amount and in a planned relationship to the people they will serve. Efforts shall be made to separate commercial and noncommercial uses through the use of walls, fences, or landscaping, and open space.**

FINDINGS: The Hearings Officer finds the proposed plan amendment is consistent with this plan policy because the property's designation of CN indicates the city's intent that it be developed with commercial uses serving residents of the surrounding neighborhood. As discussed above, I have found the CN designation a mistake because of the size of the subject property. I find separation of commercial uses on the subject property from adjacent residential uses will be accomplished through conditional use and/or site plan requirements for specific development proposals.

4. **Commercial Areas (Pages 41-42, 44)**

The following goals establish a framework for the commercial section of the General Plan:

4. **A limited number of neighborhood commercial developments should be permitted in residential areas as a convenience to the residents and these uses shall conform to the character of areas in which they are located.**

FINDINGS: The Hearings Officer finds the proposed plan amendment is consistent with this plan policy by providing the contemplated commercial services for residents of the surrounding neighborhood while reflecting the larger size of the parcel that than allowed for CN development.

<u>Convenience Commercial</u> areas are intended to provide for the frequent shopping or service needs of nearby residential areas. They will consist principally of a wide range of small retail and service uses, the largest of which would be a grocery store. Uses such as a grocery

store, drug store, small bakery shop, specialty shops, and offices would by typical of these areas. These areas are located on the Plan along Greenwood on the east side, and on Galveston, 14th, and Newport on the west side.

As time passes, there may be a need for convenience areas not shown on the Plan. If this happens, new convenience commercial areas should occur as centers, rather than as commercial strips, along major streets or highways. Convenience centers should be located on major or collector streets, preferably at or near an intersection with another similar street, and have a site size of from 2 1/2 to 4 acres. In order that convenience centers remain oriented toward serving nearby residential areas and do not expand to serve much larger parts of the community, commercial floor area would be limited to 35,000 to 55,000 square feet. They should be spaced from 1 to 1 1/2 miles apart, and new locations should be based on realistic economic projections which demonstrate a need for the facilities.

FINDINGS: The Hearings Officer finds the proposed plan amendment is consistent with this plan policy because the subject property is located on Newport (called Shevlin Park Road west of College Way), is four acres in size, is located at the intersection of an arterial (Shevlin Park Road) and a collector (College Way), and is of appropriate size and at an appropriate location to serve neighborhood residents. Although the subject property is less than a mile from the nearest convenience commercial area east on Newport Avenue (which includes grocery stores, a drug store, a coffee shop, gas station, video rental store, cafes and a gas station), I find the property's commercial plan designation clearly indicates it was contemplated for commercial development.

For the foregoing reasons, the Hearings Officer finds the applicant's proposed plan amendment is consistent with the applicable goals, objectives, policies and statements of intent of the Bend Area General Plan.

B. City of Bend Zoning Ordinance, Ordinance No. NS-1178

1. Section 10-10.33, Amendments.

This ordinance may be amended by changing the boundaries of zones or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment.

(2) <u>Standards for Zone Change</u>. The burden of proof is upon the one seeking change. The degree of that burden increases

proportionately with the degree of impact of the change which is sought. The applicant shall in all cases establish:

(a) That the change conforms with the Comprehensive Plan. Specifically, the change is consistent with the Plan's intent to promote an orderly pattern and sequence of growth.

FINDINGS: The proposal's compliance with the comprehensive plan is discussed in detail in the findings above and incorporated by reference herein. The Hearings Officer has found the applicant's proposal is consistent with applicable plan goals, policies and statements of intent.

(b) That the change will not interfere with existing development on, development potential, or value of other land in the vicinity of the proposed action.

FINDINGS: The subject property's CN designation indicates the city intended for it to be developed with commercial uses designed to meet the needs of residents of the surrounding area. The subject property abuts property zoned RM that eventually will be developed with multi-family dwellings appropriate to locate near a busy intersection and close to convenience commercial uses. Therefore, the Hearings Officer finds the proposed zone change likely will enhance the value and development potential of both developed and undeveloped lands in the vicinity. I find the only potential for interference with development on surrounding properties would be from traffic impacts from commercial development of the subject property. As discussed in detail in the findings below, I have found commercial development of the subject property will generate traffic significantly impacting affected transportation facilities. However, I have found other development, and not the proposed commercial development of the subject property, will cause affected transportation facilities to function below accepted levels of service. For these reasons, I find the applicant's proposed zone change satisfies this approval criterion.

(c) That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

FINDINGS: Section 10-10.14(1) states the purpose of the CC Zone as follows:

The zone is intended to provide locations for a relatively wide range of small businesses and services which fit into the residential development pattern as a convenience to residents in that part of the City and to recognize existing uses of this type within the City. New centers of this type are intended to be limited in size to not more than four acres of contiguous land and to be located and developed in a manner consistent with the general plan.

The Hearings Officer finds the proposed zone change is consistent with the purpose of the CC Zone because it will allow development of the 4-acre parcel with small-scale businesses and services designed to serve the residents of surrounding properties and at a convenient location at the intersection of an arterial and a collector street. I find the subject property's proximity to existing convenience commercial development and vacant land designated and zoned for multi-family housing will assure the compatibility of commercial development on the subject property. And as discussed in the findings below, I have found the subject property's RM zoning, being inconsistent with its CN plan designation, was a mistake. For these reasons, I find the applicant's proposal satisfies this approval criterion.

(d) That the change will result in the orderly and efficient extension or provision of public services. Also, that the change is consistent with the City of Bend policy for provision of public services.

FINDINGS:

1. Water and Sewer. The Hearings Officer finds the applicant's proposal will result in the orderly and efficient extension and provision of city sewer and water services which are available to the subject property, and is consistent with the City of Bend's master plans for providing water and sewer service to lands within the Bend UGB.

2. Transportation Facilities. The Hearings Officer finds the proposed plan amendment and zone change, in and of themselves, will not create impacts on affected transportation facilities. I find the issue presented by the proposed zone change from RM to CC is whether it will result in development creating impacts on affected transportation facilities beyond those contemplated by the current RM zoning that will cause affected transportation facilities to operate below acceptable levels of service.

The applicant submitted two traffic impact studies prepared by Kittelson & Associates. Both studies analyze traffic impacts from development of the entire 16.34-acre parcel (hereafter "site") on affected transportation facilities, including College Way, Shevlin Park Road and their intersection as well as two other nearby intersections -- College Way/Portland Avenue located approximately one block to the north and Newport Avenue/14th Street located a few blocks to the east. The first study, dated May 5, 1998, addresses anticipated traffic impacts from development of the site under the current RM zoning and also assuming the 3.9-acre subject property would be rezoned and developed with commercial uses. The June 17, 1998, supplemental study makes minor revisions to the traffic predictions in the May 5, 1998, study

The May 5, 1998, analyzed existing traffic conditions and predicted for the year 2004 (when buildout of the site would occur) both background traffic levels and traffic anticipated to be generated by development of the site with and without the proposed

commercial development of the subject property. In addition, the study predicted traffic conditions in the year 2018. The study indicates that under existing conditions the College Way/Shevlin Park intersection operates at Level of Service (LOS) D and the Newport Avenue/14th Street intersection operates at LOS F.[1] The study predicts that in the year 2004 without development of the site the College Way/Shevlin Park Road intersection will operate at LOS F. In other words, the intersection is predicted to fail because of other traffic -- particularly that generated by COCC which takes its primary access from College Way. Thus, the record indicates development of the site with or without a commercial component will not cause the College Way/Shevlin Park Road intersection to fail in 2004.

The June 17, 1998, study predicts the amount of traffic that will be generated by development of the site under the current RM zoning and with proposed commercial component. A total of 1,625 additional average daily vehicle trips (ADT's) -- 150 of which would be during the p.m. peak hour (4:00 to 6:00 p.m. weekdays) would be generated by development of the site under the current RM zoning. With the commercial component ADT's would total 3,810 with 355 p.m. peak hour trips -- or an increase of 2,185 ADT's and 215 p.m. peak hour trips over the current RM zoning.

The May 5, 1998, study concludes the College Way/Shevlin Park Road intersection could be made to operate a acceptable levels of service with or without development of the site if it were signalized. The study concludes the intersection meets two of the three required "warrants" -- or justifications -- for a signal in the year 2004 without development of the site. However, the supplemental staff report indicates the city has no plans to signalize this intersection.[2] The only improvement the city contemplates is a realignment to a 90-degree intersection as a condition of development of the subject property. And the study suggests that since the need for the signal would not result from traffic generated by development on the site, the applicant should not be required to provide it as a condition of development approval.

The Hearings Officer finds the applicant's traffic studies present me with a quandary. On the one hand it is clear that development of the site -- particularly with commercial uses -- will generate traffic at levels well beyond the capacity of the College Way/Shevlin Park intersection without a signal. No signal is planned. On the other hand, the traffic studies make clear it is other development -- not development on the site or commercial development on the subject property -- that will cause the intersection to fail. In other

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[1] The traffic study indicates there are five levels of service from A to F, with LOS A indicating the highest level of service -- fewest delays -- and LOS F indicating the lowest level of service -- significant delays. The Hearings Officer understands that LOS D is considered the minimum acceptable level of service for unsignalized intersections.

[2] The city does plan to signalize the failing Newport Avenue/14th Street intersection in the years 2002-2003.

words, development of the site even under the current RM zoning will generate traffic exceeding the intersection's capacity without a signal.

In *Eastridge* (File #95-289/PA-5/ZC-A-95), this Hearings Officer concluded I could not find a proposed commercial zone change contributed to the "orderly and efficient extension or provision of public services" where traffic studies showed commercial development on the site would be the cause of the failure of affected intersections, and the applicant had not proposed to improve those intersections. Here, in contrast, commercial development of the subject property will not be the cause of the intersection failure. Moreover, I find it likely that in order to meet the requirements of the city's subdivision and zoning ordinances the applicant will be required as a condition of development approval to improve the intersection.

The Hearings Officer finds the question of whether the applicant's proposed zone change "will result in the orderly and efficient extension or provision of public services" is a very close one. I have serious concerns about how the site can be developed at all -- let alone with commercial uses -- consistent with the requirements of the city's subdivision and zoning ordinances without improvements to the College Way/Shevlin Park Road intersection that go well beyond realignment. And the timing, funding and party or parties responsible for those improvements have not been identified. However, weighed against these concerns is the fact that the subject property's CN plan designation signifies the city long has contemplated the property would be developed with commercial uses. And as discussed in the findings above, the size and location of the subject property clearly meet the purpose of the CC Zone. On balance, I must reluctantly conclude that under these unique circumstances the proposed zone change satisfies this approval criterion.

(e) That there is proof of a change of circumstance or a mistake in the original zoning.

FINDINGS: For the reasons set forth in the findings above and incorporated by reference herein, the Hearings Officer finds there was a mistake in the original RM zoning of the subject property in light of its CN plan designation.

C. Oregon Administrative Rules

1. OAR Chapter 660-12, Transportation Planning Rule

a. OAR 660-12-060, Plan and Land Use Regulation Amendments

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity and level of service of the facility.

(2) A plan or land use regulation amendment significantly affects a transportation facility if it:

(a) Changes the functional classification of an existing or planned transportation facility;

(b) Changes standards implementing a functional classification system;

(c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or

(d) Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP [Transportation System Plan].

FINDINGS: The Hearings Officer finds this administrative rule applies because the applicant is proposing an amendment to the Bend Area General Plan.

As discussed in the findings above, incorporated by reference herein, the Hearings Officer has found commercial development of the subject property will generate traffic well beyond the capacity of the College Way/Shevlin Park Road intersection without a signal, and no signal is planned by the city or the applicant. However, I also have concluded that since it is traffic from other development that will cause this intersection to fail, the proposed commercial zone change satisfies the applicable zone change criteria. For these reasons, I find the proposed plan amendment and zone change will not result in levels of traffic that are inconsistent with the classification of the affected streets or that will cause affected intersections to fall below accepted levels of service.

2. OAR Chapter 660, Statewide Land Use Planning Goals

FINDINGS: The Hearings Officer makes the following findings concerning the proposal's consistency with the applicable statewide land use planning goals:

Goal 1, Citizen Involvement. The Hearings Officer finds this goal is met because the city provided notice of proposed plan amendment and zone change to the public through individual notice to affected property owners, posting of the subject property with a notice of proposed land use action sign, and notice of the public hearing in the "Bend Bulletin" newspaper. In addition, a public hearing was held on the proposed plan amendment before the Hearings Officer. The Hearings Officer's decision and the Staff Report have provided the public with information concerning the proposed plan amendment.

Goal 2, Land Use Planning. The Hearings Officer finds this goal is met because at least two public hearings will be held on the proposed plan amendment and zone change -- one before the Hearings Officer and one before the Bend City Council.

Goal 3, Agricultural Lands. The Hearings Officer finds this goal is not applicable because the subject property is not zoned or designated for agriculture.

Goal 4, Forest Lands. The Hearings Officer finds this goal is not applicable because the subject property is not zoned or designated for forest use.

Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources. The Hearings Officer finds this goal is not applicable because the subject property does not contain any identified Goal 5 resources nor would its development affect any Goal 5 resources.

Goal 6, Air, Water and Land Resources Quality. The Hearings Officer finds this goal is not applicable because none of these resources will be impacted by the proposed plan amendment or zone change.

Goal 7, Areas Subject to Natural Disasters and Hazards. The Hearings Officer finds this goal is not applicable because the subject property is not located in a known natural disaster or hazard area.

Goal 8, Recreational Needs. The Hearings Officer finds this goal is not applicable because the proposed plan amendment and zone change do not implicate the planning and development of destination resorts outside an urban growth boundary.

Goal 9, Economic Development. The Hearings Officer finds this goal is met because the proposed plan amendment and zone change will assure the subject property is developed for commercial uses as contemplated in the Bend Area General Plan.

Goal 10, Housing. The Hearings Officer finds this goal is met because although the proposed zone change will remove the subject property from the inventory of available RM-zoned lands in the Bend Urban Area, it is clear the subject property was planned for commercial development.

Goal 11, Public Facilities and Services. The Hearings Officer finds this goal is met because development on the subject property will be served by city water and sewer and the proposal satisfies all applicable plan amendment and zone change criteria related to transportation facilities and is consistent with the Transportation Planning Rule.

Goal 12, Transportation. The Hearings Officer finds this goal is met because the proposal satisfies all applicable plan amendment and zone change criteria related to transportation facilities and is consistent with the Transportation Planning Rule.

Goal 13, Energy Conservation. The Hearings Officer finds this goal is met because the proposal will increase the density of development on the subject property and will provide commercial development close to surrounding residences, thereby maximizing the conservation of energy from reduce vehicle trips.

Goal 14, Urbanization. The Hearings Officer finds this goal is met because the subject property is within the Bend Urban Growth Boundary and therefore the proposal does not impact the transition from rural to urban use..

Goals 15 through 19. The Hearings Officer finds these goals, which address river, ocean, and estuarine resources, are not applicable because the subject property is not located in or adjacent to any such areas or resources.

IV. CONCLUSIONARY FINDINGS:

1. The requested plan amendment and zone change constitute a Type III quasi-judicial land use action under the city's procedures ordinance. As such, the Hearings Officer's role in this matter is to make findings of fact and a recommendation concerning the application. If the Hearings Officer makes a favorable recommendation, the City Council is required to review the proposed zone change. If the Hearings Officer recommends denial, the applicant must appeal the decision to the City Council within 10 days of the date notice of the decision is mailed. The City Council may accept or reject the findings and recommendations prepared by the Hearings Officer.

2. The Hearings Officer has found the applicant has demonstrated compliance with all applicable plan policies and zone change approval criterion for the proposed plan amendment from CN to CC and the proposed zone change from RM to CC.

3. Section 10-10.33(6) of the Zoning Ordinance provides in pertinent part as follows:

> "If, from the facts presented and findings and the report and recommendations of the Approval Authority as required by this section, the City Commission [Council] determines that the public health, safety, welfare and convenience will be best served by a proposed change of zone, the City Commission [Council] may indicate its general approval in principal [sic] of the proposed rezoning by the adoption of a 'Resolution of Intent to Rezone.' This resolution shall contain any conditions, stipulations or limitations, prerequisite to final action, including those provisions which the City Commission [Council] may feel necessary to prevent speculative holding of the property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution a binding commitment on the City Commission [Council] . . . ."

4. The Hearings Officer finds that while, as discussed in the findings above, the intersection of College Way and Shevlin Park Road will require significant improvements

in order to accommodate traffic anticipated to be generated by commercial development of the subject property, it would not be appropriate for me to recommend the proposed plan amendment and zone change be conditioned on the applicant constructing such improvements through an "intent to rezone."

V. DECISION:

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearings Officer recommends **APPROVAL** of the proposed plan amendment and zone change.

Dated this 28th day of September, 1998.

Mailed this 28th day of September, 1998.

Karen H. Green, Hearings Officer

LEGAL DESCRIPTION

All that property being a portion of the northwest quarter (NW ¼) of Section 31, Township 17 South, Range 12 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, described as follows:

Commencing at the intersection of the southwesterly right-of-way of College Way and the northerly right-of-way of Shevlin Park Road; thence along said southwesterly right-of-way of College Way along the arc of a 190.78 foot radius curve to the right, through a central angle of 08°31'20", an arc length of 28.38 feet (the chord of which bears North 34°30'25" West, 28.35 feet); thence North 30°14'45" West, 95.05 feet to the True Point of Beginning; thence leaving said southwesterly right-of-way, South 00°15'51" East, 95.48 feet to the beginning of a non-tangent 778.51 foot radius curve to the right that lies parallel with and 50.00 feet north of the centerline of said Shevlin Park Road; thence along said parallel line and said curve through a central angle of 28°02'13", an arc length of 380.95 feet (the chord of which bears North 74°39'39" West, 377.16 feet); thence North 60°38'33" West, 303.24 feet to a point of reference to be called Point "A"; thence continuing on the same parallel course, North 60°38'33" West, 149.49 feet to the beginning of a non-tangent 255.00 foot radius curve to the right; thence leaving said parallel line and along said curve through a central angle of 44°03'23", an arc length of 196.08 feet (the chord of which bears North 47°44'45" East, 191.28 feet); thence North 66°33'12" East, 50.14 feet; thence North 77°25'08" East, 120.80 feet; thence South 72°04'47" East, 261.90 feet to said southwesterly right-of-way of College Way and a point on a non-tangent 1870.09 foot radius curve to the right; thence along said southwesterly right-of-way and said curve through a central angle of 07°02'10", an arc length of 229.65 feet (the chord of which bears South 33°45'49" East, 229.51 feet); thence South 30°14'45" East, 150.19 feet to the Point of Beginning.

Excepting therefrom the following described parcel:

Beginning at said Point "A" on said line that lies parallel with and 50.00 feet north of the centerline of Shevlin Park Road; thence along said parallel line, North 60°38'33" West, 50.00 feet; thence leaving said parallel line, North 29°21'27" East, 16.19 feet to the beginning of a tangent 155.00 foot radius curve to the right; thence along said curve through a central angle of 39°44'59", an arc length of 107.53 feet (the chord of which bears North 49°13'56" East, 105.39 feet) to the beginning of a non-tangent 325.00 foot radius curve to the left ; thence along said curve through a central angle of 17°42'16", an arc length of 100.43 feet (the chord of which bears North 19°11'33" West, 100.03 feet); thence North 66°33'12" East, 50.14 feet to the beginning of a non-tangent 375.00 foot radius curve to the right; thence along said curve through a central angle of 16°55'16", an

arc length of 110.75 feet (the chord of which bears South 18°58'12" East, 110.35 feet) to the beginning of a non-tangent 155.00 foot radius curve to the right; thence along said curve through a central angle of 21°06'05", an arc length of 57.08 feet (the chord of which bears South 81°46'28" East, 56.76 feet); thence South 71°13'26" East, 260.39 feet to the beginning of a tangent 145.00 foot radius curve to the left; thence along said curve through a central angle of 48°47'45", an arc length of 123.49 feet (the chord of which bears North 84°22'42" East, 119.79 feet to said southwesterly right-of-way of College Way and a point on a non-tangent 1870.09 foot radius curve to the right; thence along said southwesterly right-of-way and said curve through a central angle of 01°31'56", an arc length of 50.01 feet (the chord of which bears South 31°39'01" East, 50.01 feet) to the beginning of a non-tangent 195.00 foot radius curve to the right; thence leaving said southwesterly right-of-way and along said curve through a central angle of 49°12'50", an arc length of 167.49 feet (the chord of which bears South 84°10'09" West, 162.39 feet); thence North 71°13'26" West, 260.39 feet to the beginning of a tangent 105.00 foot radius curve to the left; thence along said curve through a central angle of 79°25'07", an arc length of 145.54 feet (the chord of which bears South 69°04'01" West, 134.17 feet); thence South 29°21'27" West, 16.19 feet to the Point of Beginning.

Contains 3.94 acres, more or less.



ORDINANCE NO. NS-1707

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178 BY ADDING THREE NEW ZONES

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the necessity to modify the zoning ordinance in order to implement the new Bend Area General Plan, and has considered the Planning Commission recommendation regarding this request.

Section 2. Section 11 of Zoning Ordinance No. NS-1178 is hereby amended by adding the following:

Section 11A. Urban Medium-10 Residential Zone, or RM-10 Zone.

(1) Purpose. This zone is intended to provide for the development of manufactured home parks and low density multiple family residential structures where such buildings are reasonably spaced on the lot to provide for light, air, privacy, safety and insulation against transmission of sound in areas with sewer and water services. Each development of two or more units is subject to Site Plan approval as provided in Section 23.

(2) Permitted Uses. The following uses are permitted:

- **(a) Mobile home park, subject to the provisions of Subsection (8) of Section 25.**
- **(b) Two-family dwelling or duplex.**
- **(c) Two single-family dwellings on one lot, provided that no dwelling is located within 10 feet of any other dwelling on the same lot, and also provided that all lot area, yard and coverage requirements set forth in Subsection (5) of Section 11 are observed. There shall be provided for the rear dwelling unoccupied and unobstructed access not less than 15 feet wide to the street fronting the lot.**
- **(d) Multiple-family dwellings, apartment houses, dwelling group, and condominiums.**
- **(e) Farming, excluding the keeping of livestock.**
- **(f) Home occupations in a detached single-family dwelling unit or duplex and subject to the provisions of Subsection (15) of Section 25.**
- **(g) Offices incidental and necessary to the conduct of a permitted use.**
- **(h) Off-street parking lots when appurtenant to a permitted use.**
- **(i) Day care, kindergarten, nursery school**

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 29.

- **(a) Nursing homes, rooming and boarding houses.**
- **(b) Churches.**
- **(c) Public, parochial, private schools, not including business, trade, technical or similar schools.**
- **(d) Parks and recreation facilities, fire stations, libraries, museums; but not including storage or repair yards, warehouses and similar uses.**
- **(e) Planned Unit Developments subject to the provisions of Section 30.**
- **(f) Utility substations or pumping stations with no equipment storage and sewage treatment facilities.**
- **(g) Off-street parking lots when contiguous to a less restrictive zone.**
- **(h) Buildings over 30 feet in height.**
- **(j) Moving and location of a dwelling built prior to January 1, 1961.**
- **(k) Single-family dwelling.**
- **(l) Radio and television transmission facilities.**
- **(m) Timeshare Unit or the creation thereof, subject to the provisions of Section 25.**
- **(n) Hydroelectric facility, subject to the provisions of Subsection (20) of Section 25.**

(4) Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed a height of 30 feet without approval of a Conditional Use Permit.

(5) Lot Requirements. The following lot requirements shall be observed:

- **(a) Lot Area: Every lot shall have a minimum area of 4,000 square feet for the first unit plus 4,000 feet for each additional unit, provided that manufactured home park spaces are as small as allowed by State law and provided the park density as a whole does not exceed 10 units per gross acre.**
- **(b) Lot Width: Every lot shall have a minimum width of 50 feet.**
- **(c) Front Yard: The front yard shall be a minimum depth of 10 feet except a garage or carport shall be setback a minimum of 20 feet.**
- **(d) Side Yard: There shall be a minimum side yard of 5 feet and the sum of the side yards shall be a minimum of 10 feet. The side yards shall be increased by ½ foot for each foot by which building height exceeds 15 feet.**
- **(e) Rear Yard: There shall be a rear yard having a depth of not less than 5 feet. The rear yard shall be increased by ½ foot for each foot by which the building height exceeds 15 feet.**
- **(f) Side and rear yard setbacks for duplexes and triplexes are subject to standards in Section 23 (d) and (e).**
- **(g) Lot Coverage: Maximum lot coverage by buildings and structures shall be 40 percent of the total lot area.**
- **(h) Zero Lot Line Subdivision or Partition: Regulations for a side yard setback may be waived for an approved zero lot line subdivision or partition.**
- **(i) Solar Setback: The solar setback as prescribed in Section 26A.**

(6) Off-Street Parking. Off-street parking shall be provided as required in Section 24.

(7) Special Yards and Distances Between Buildings. The following special yards and distances between buildings shall be observed:

- **(a) An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet.**
- **(b) The distance between principal buildings shall be at least 10 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space.**

Section 3. Section 21 of Zoning Ordinance No. NS-1178 is hereby amended by adding the following:

Section 21B. Mixed Employment Zone or ME Zone.

(1) Purpose. The zone is designed to provide for a mix of uses such as office, retail, services, light manufacturing and warehousing that offer a variety of employment opportunities in an aesthetic environment and having a minimal impact on surrounding uses.

(2) Permitted Uses. The following uses are permitted in the ME Zone subject to the provisions of Design Review and Site Plan review in Section 23 and Section 23 A.

- **(a) Automobile and truck repair and service, provided wholly within an enclosed building.**
- **(b) Automobile, truck, and recreation vehicle sales of new vehicles, including service facilities and outdoor storage of vehicles.**
- **(c) Bakery for wholesale and retail distribution.**
- **(d) Banks, savings and loan institutions, credit unions and other financial institutions.**
- **(e) Barber, beauty shop, hair dresser, and similar cosmetology services.**
- **(f) Business services including copying, blueprinting, photo reproduction, package distribution, electronic communications, accounting, secretarial, travel agency, building maintenance, and security services.**
- **(g) Contractor equipment storage and operation yards, and rental of equipment and machinery commonly used by contractors.**
- **(h) Creamery, soft drink bottling plant, alcoholic beverage bottling plant, and similar uses.**
- **(i) Dwelling unit for a caretaker or watchman working on the property.**
- **(j) Existing residential uses, without any increase in density.**

(k) Educational or training facilities.
(l) Fitness facility or health center, to include child care for patrons only, related administrative offices, related retail for exercise clothing and equipment and sale of refreshments.
(m) Hotels, motels, boarding houses and similar lodging facilities.
(n) Laundry, dry cleaning, and fabric dying.
(o) Light manufacturing, assembly, fabricating or packaging of products from previously prepared materials such as cloth, plastic, paper, leather, precious or semi-precious metals or stones.
(p) Manufacture, testing and assembly of electric, electronic, photographic or optical instruments, equipment or software.
(q) Manufacture, assembly and packaging of food products, pharmaceuticals, and beverages, but not including the production of fermented foods, such as sauerkraut, vinegar, or the like, or the rendering of fats and oils.
(r) Motion picture and video production sound stages and studios, and television, or radio broadcasting studios.
(s) Offices for designers, engineers, planners, computer technicians, architects, surveyors, realtors, property appraisers, insurance agents, travel agents, and similar professional offices.
(t) Offices and clinics for medical doctors, dentists, ophthalmologists, opticians, and similar practitioners of the and healing arts.
(u) Printing, publishing, lithography, and book binding.
(v) Retail stores and shops not to exceed 20,000 square feet in gross floor area.
(w) Restaurants, delicatessens, coffee shops, taverns without drive-up window service.
(x) Scientific research or experimental development of non-hazardous materials, methods or products including engineering and laboratory research.
(y) Warehouse and distribution or shipping center for prepared goods or packaged items.
(z) Wholesale and retail storage facilities, including mini-warehouse operations.

(aa) Wholesale and retail laundry supply and cleaners.
(ab) Wholesale and retail sales of lumber, electrical, plumbing, mechanical, and other construction materials.
(ac) Wholesale and retail sales of agricultural machinery, farm products, feed, seed, and similar agricultural products.
(ad) Veterinary office or clinic conducted within an enclosed building.
(ae) Administrative offices, day care facility, training facilities and similar secondary activities and facilities provided for the employees of a permitted or conditional use on the site of such use.

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Sections 23 and 29.

(a) Public buildings and public utility structures and yards, including railroad yards.
(b) Restaurant, delicatessen, and other food service uses with drive-up windows.
(c) Storage or distribution center for heating oil, vehicle fuel oil, bottle gas, and similar hazardous materials.
(d) Commercial day nursery or day care facility that is not part of a service for employees of a permitted or conditional use.
(e) Multiple housing units as a secondary use to a permitted or conditional use, and located above or behind such permitted or conditional use.
(f) Automobile service station, also subject to Section 25, Provisions Applying to Special Uses.
(g) Used automobile, truck, recreation vehicle, and heavy equipment sales lots, including outdoor storage of vehicles.
(h) Preparation and distribution center for pumice, rock, concrete and similar construction products.
(i) Buildings exceeding 45 feet in height.

(4) Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed a height of 45 feet, without a Conditional Use Permit approval.

(5) Lot Requirements. The following lot requirements shall be observed:

(a) Lot Area: Each lot shall have a minimum area of 6,000 square feet.

(b) Lot Width: No requirements.

(c) Lot Depth: Each lot shall have a minimum depth of 100 feet.

(d) Front Yard: The front yard setback area shall be a minimum of 10 feet.

(e) Side yard: None except a side yard setback area shall be a minimum of 15 feet when abutting a lot in a residential zone.

(f) Rear Yard: None except a rear yard setback area shall be a minimum of 15 feet when abutting a lot in a residential zone.

(g) Lot Coverage: The maximum lot coverage by buildings and structures shall be 50 percent of the total lot area.

(6) Off-Street Parking and Loading. Off-street parking and loading space shall be provided as required in Section 24.

(7) Other Required Conditions.

(a) Other yards and unused property on a developed site shall be landscaped and maintained.

(b) Any use, or portion thereof, causing noise shall be performed in such a manner as not to create a nuisance or hazard on any adjacent property.

(c) Any use or portion thereof causing vibration shall be performed in such a manner as not to create a nuisance or hazard on any adjacent property.

(d) Any operation producing intense heat or glare shall be performed in such a manner as not to create a nuisance or hazard on adjacent property.

(e) There shall be no emission of odorous, toxic, noxious matter, or dust in such quantities as to be readily detectable at any point along or outside property lines so as to produce a public nuisance or hazard.

(f) Fences, walls or hedges may be required by the Site Plan Committee if, in the opinion of the Committee, such screening is necessary to protect the residential quality of adjacent property in any residential zone.

Section 4. Section 21 of Zoning Ordinance No. NS-1178 is hereby amended by adding the following:

Section 21C. Public Facilities Zone or PF Zone

(1) Purpose. The PF Zone is intended to provide area for buildings and facilities that are owned and operated by federal, state, or local governments, public utilities, special districts, or non-profit organizations, and which are occupied to provide governmental or public services. This zone is also intended to provide for school sites, public park and recreational facilities, natural areas, trails, wetlands, and similar types of open space owned and managed by a local government or special district.

(2) Permitted Uses. The following uses are permitted in a PF Public Facilities Zone, subject to the provisions of Section 23, Site Plan review.

(a) Public buildings such as city hall, county courthouse, administrative buildings, library, museum, fire station, public safety training facilities, and similar

structures, but excluding correctional facilities.

(b) Public parks, playgrounds, swimming pool, skateboard park, pedestrian/bicycle trails and similar public recreation facilities.

(c) Public play fields, sports complexes and similar recreational facilities without night lighting for play fields, and without amplified sound systems.

(d) Publicly owned and operated community meeting halls, lodges, and conference halls open to and used by the general public.

(e) Public reservoirs, well sites, pump stations, and similar utility buildings or structures.

(f) Elementary schools operated by the Bend-La Pine School District.

(g) Public college or university.

(h) Trails, natural areas, open space, future park sites, and similar public or special district owned lands with no or minimal improvements.

(i) Accessory uses and buildings customarily used to support a permitted use or an approved conditional use.

(i) Minor repairs and maintenance to any permitted or conditional use.

(k) Parking lots and parking areas to serve a permitted or conditional use.

(3) Conditional Uses. The following conditional uses may be permitted subject to the provisions of Section 29.

(a) Public utility maintenance facilities and operation yards with outdoor storage of materials and supplies.

(b) Middle and High schools operated by the Bend-La Pine School District.

(c) Magnet schools or other special schools operated by the Bend-La Pine School District.

(d) Ball fields, sport complexes, and similar outdoor recreational areas that have night lighting or amplified sound systems.

(e) Public transmission tower sites.

(f) County solid waste disposal sites or solid waste transfer sites.

(g) Correctional facilities for adults and juveniles including work farms and training centers.

(h) Park sites with outdoor amphitheater or facilities for community events such as music or theater performances, and similar events.

(i) Buildings or structures that are more than 35 feet in height.

(4) Lot Requirements.

(a) Lot Area. No requirement.

(b) Lot Width. No requirement.

(c) Lot Depth. No requirement.

(d) Front Yard Setback. None, except when abutting a lot in an residential zone, then the front yard setback to a building or parking area shall be the required setback in the abutting residential zone.

(e) Side and Rear Yard Setback. None, except when abutting a lot in an residential zone, then the structure setback shall be a minimum of 10 feet. The required side and rear yard setback shall be increased by one-half foot for each foot by which the structure exceeds 20 feet in height.

(f) Lot Coverage. No maximum requirement.

(5) Off-Street Parking Requirements.

(a) Parking and loading areas abutting or directly across the street from a residential zone shall be setback from the right-of-way line at least the same distance as required in the residential zone. The parking and loading setback area shall be appropriately landscaped along the residential street frontage to protect the character of the adjoining residential property.

(b) The number of off-street parking and loading spaces shall be provided as required in Section 10.24.

(6) Other Required Conditions.

(a) All service, repair, processing, or storage on property abutting or across the street from a lot in a residential zone shall be conducted wholly within an enclosed building unless screened from the residential zone by a site-obscuring fence or wall.

Read for the first time the 18th day of November, 1998.

Read for the second time the 2nd day of December, 1998.

Placed upon its passage the 2nd day of December, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 2nd day of December, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1708

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the necessity to modify the zoning ordinance in order to implement the new Bend Area General Plan, and has considered the Planning Commission recommendation regarding this request.

Section 2. Section 10 of Zoning Ordinance No. NS-1178 is hereby amended as follows:

Section 10. Urban Standard Residential Zone or RS Zone.

(1) Purpose. The RS Zone is intended to provide for the most common urban residential densities in places where community sewer services are or will be available and to encourage, accommodate, maintain and protect a suitable environment for family living.

(2) Permitted Uses. The following uses are permitted:

(a) Single-family dwelling.
(b) Agriculture, excluding the keeping of livestock.
(c) Rooming and boarding of not more than two persons.
(d) Home occupations subject to the provisions of Subsection (15) of Section 25.
~~[(e) One private garage for each dwelling unit.]~~
~~[(f) Central Oregon Community College, subject to site plan approval for new building or structures.]~~
(e)[~~(g)~~]Park rehabilitation, minor betterment and repairs.
(f) **Accessory dwelling in a subdivision or Planned Unit Development (PUD) approved after December 2, 1998, provided that overall density in subdivision or PUD does not exceed 7.3 dwelling units per gross acre.**

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 29.

(a) Mobile home subdivision subject to standards of Subsection (11) of Section 25.
(b) Churches.
(c) Cemeteries and mausoleums, crematories, columbariums and mortuaries within cemeteries provided that no mortuary or crematorium is within 100 feet of a boundary street, or where no street borders the cemetery, within 200 feet of a lot in a residential zone.
~~[(d) Dwelling groups, subject to the provisions of Subsection (13) of Section 25.]~~
(e) Public, parochial and private schools, including nursery schools, kindergartens and day nurseries; but not including business, dancing, trade, technical or similar schools.
(f) Parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses or similar uses.
(g) Recreation facility, including country clubs, golf courses, swimming clubs, tennis clubs; but not including such intensive commercial recreation uses as a race track or amusement park.
(h) Utility substations or pumping stations with no equipment storage and sewage treatment facilities.
(i) Planned Unit Developments subject to provisions of Section 30.
(j) Temporary subdivision tract offices.
(k) Rear lot development subject to ~~[Site Plan Approval as provided in Section 23 and]~~ Subsection (14) of Section 25.
(l) Lodge and fraternal organizations, except those carried on as a business for profit.
(m) Duplex in areas designated RS provided that each lot occupied by a duplex shall have a minimum area of 12,000 square feet **for lots created before December 2, 1998, or 8,000 square feet for lots created after December 2, 1998.**
(n) Two single-family dwellings on one lot in areas designated RS provided that each lot occupied by two single-family dwellings shall have a minimum area of 12,000 square feet **for lots created before December 2, 1998 and 8,000 for lots created**

after December 2, 1998, and also provided that all yard and coverage requirements set forth in Subsection (5) of Section 10 are observed. In addition, no dwelling unit shall be located within 10 feet of any other dwelling unit on the same lot. There shall be provided for the rear dwelling unoccupied and unobstructed access not less than 15 feet wide to the street fronting the lot.

(o) Keeping of livestock, subject to Subsection (7) of Section 25.
(p) Moving in a single-family dwelling built prior to January 1, 1961.
(q) Mobile home park.
(r) Radio and television transmission facilities.
(s) Plant nursery subject to Section 25, Subsection (19).
(t) Condominiums.
(u) A building or structure over 30 feet in height.
(v) Timeshare unit or the creation thereof, subject to the provisions of Section 25.
(w) Bed and Breakfast Inn, subject to the standards set forth in Section 25(24).
(y) Hydroelectric facility, subject to the provisions of Section 25, Subsection (20).
(z) Diagnostic testing and counseling service for allegedly abused children, limited specifically to Lots 5, 6, 7 and 8, Block 25, NW Townsite Company's Second Addition to Bend.

(aa) Public or not for profit facility that provides temporary residential care or shelter. Such facility shall be licensed by the State of Oregon and be within 1000 feet of an arterial street.

(bb) Other dwelling types when part of a new master planned subdivision or Planned Unit Development (PUD) approved after December 2, 1998, that provides and protects areas of special interest and/or open space approved by the City.

(4) Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed 30 feet in height without a conditional use permit.

(5) Lot Requirements. The following lot requirements shall be observed, provided that the [~~Hearings Body~~] **approval authority** may allow smaller lots or different housing types in a new subdivision **or Planned Unit Development (PUD)** approved pursuant to this ordinance and consistent with the Comprehensive Plan designations for preservation of [~~forested areas or significant rock outeroppings~~] **areas of significant interest** when these lots **or housing types** are internal to the subdivision **or PUD** [~~after hearing if they are located on the edge of the new plat~~].

(a) Lot Area: **A lot in a subdivision or planned unit development approved after (date of adoption) shall have a minimum area of 4,000 square feet provided that the overall density does not exceed 7.3 dwellings gross per acre, and provided that where new subdivisions abut lots of 20,000 square feet or less the exterior lots shall be at least 75% of the abutting lot sizes and lot lines or be approved through a hearing process.** All other [~~Every~~] lots shall have a minimum area of 6,000 square feet.

(b) Lot width: [~~Every~~] L[~~l~~]ots shall have a minimum width of 60 feet[.] **except in subdivisions or Planned Unit Developments (PUDs), approved after December 2, 1998, where the minimum width is 40 feet.**

(c) Front Yard: The front yard shall be a minimum of 20 feet except an existing 40 or 50 foot corner lot may have one front yard of 10 feet, provided that the garage or carport is at least 20 feet from the property line, or a minimum of 10 feet from the property line when the following conditions exist:

A. The lot is within a subdivision platted after [~~the date of adoption of this ordinance~~] **August 6, 1997** and the garage is setback a minimum of 20 feet from the front property line; and

B. The lot fronts on a public or private street.

(d) Side Yard: A side yard shall be a minimum of 5 feet and the sum of the two side yards shall be a minimum of 15 feet[.] **except that in subdivisions or Planned Unit Developments (PUDs) approved after December 2, 1998, a side yard shall be a minimum of at least 5 feet and the sum of the two side yards shall be a minimum of 10 feet except for zero lot line subdivisions approved pursuant to the City's subdivision ordinance.**

(e) Rear Yard: The rear yard shall be a minimum of 5 feet.

(f) Lot Coverage: Maximum lot coverage by buildings and structures shall be 35 percent of the lot area.

~~[(g) Zero Lot Line Subdivision or Partition: Regulations for a side yard setback may be waived for an approved zero lot line subdivision or partition.~~]

(h) Solar Setback: The solar setback as prescribed in Section 26A.

(6) Off-Street Parking. Off-street parking shall be provided as required in Section 24.

(7) Other Required Conditions. See Section 25 applying to Special Uses.

Section 3. Section 11 of Zoning Ordinance No. NS-1178 is hereby amended as follows:

Section 11. Urban Medium Density Residential Zone, or RM Zone.

(1) Purpose. This zone is intended to provide for the development of [~~low~~] **medium** density multiple-family residential structures where such buildings are reasonably spaced on the lot to provide for light, air, privacy, safety and insulation against transmission of sound in areas with [~~community~~] **sewer and water** services. Each development of two or more units is subject to Site Plan approval as provided in Section 23.

(2) Permitted Uses. The following uses are permitted:

(a) Two-family dwelling or duplex.
(b) Two single-family dwellings on one lot, provided that no dwelling is located within 10 feet of any other dwelling on the same lot, and also provided that all lot area, yard and coverage requirements set forth in Subsection (5) of Section 11 are observed. There shall be provided for the rear dwelling unoccupied and unobstructed access not less than 15 feet wide to the street fronting the lot.
(c) Multiple-family dwellings, apartment houses, dwelling group, and condominiums.
(d) Farming, excluding the keeping of livestock.
(e) Home occupations in a detached single-family dwelling unit or duplex and subject to the provisions of Subsection (15) of Section 25.
(f) Offices incidental and necessary to the conduct of a permitted use.
(g) Off-street parking lots when appurtenant to a permitted use.
(h) Mobile home park, subject to the provisions of Subsection (8) of Section 25.
(i) Day care, kindergarten, nursery school.

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 29.

(a) Nursing homes, rooming and boarding houses.
(b) Churches.
(c) Public, parochial, [~~dance~~] and private schools, not including business, trade, technical or similar schools.
(d) Parks and recreation facilities, fire stations, libraries, museums, but not including storage or repair yards, warehouses and similar uses.
(e) Planned Unit Developments subject to the provisions of Section 30.
(f) Utility substations or pumping stations with no equipment storage and sewage treatment facilities.
(g) Off-street parking lots when contiguous to a less restrictive zone.
(h) Buildings over 30 feet in height.
(j) Moving and location of a dwelling built prior to January 1, 1961.
(k) Single-family detached dwelling.
(l) Radio and television transmission facilities.
(m) Timeshare Unit or the creation thereof, subject to the provisions of Section 25.
(n) Offices for dentist, physician, or other practitioner of the healing arts, including physical therapy; medical, dental, and healing arts clinics and laboratories and pharmacies that are located within a medical, dental, or healing arts clinic or office in the following described area only:

A tract of land in the NE 1/4 NW 1/4 Section 34, T. 17 S., R. 12 E., W.M., Deschutes County, Oregon, more particularly described as follows: commencing at the north quarter corner of said Section 34, thence S. 89° 34' 36" W., 340.5 feet along the section line to the true point of beginning of this description; thence continuing along the Section line S. 89° 34' 36" W., 500 feet; thence S. 00° 25' 34" E., 143.35 feet; thence S. 89° 02' 28" E., 160 feet; thence N. 00° 25' 34" W., 41.57 feet; thence N. 89° 34' 36" E., 40 feet; thence S. 00° 25' 34" E., 41.20 feet; thence S. 89° 02' 28" E., 300 feet; thence N. 00° 25' 34" W., 155.80 feet to the true point of beginning. Except therefrom that portion of this description which lies within the right of way of Neff Road.

(o) Hydroelectric facility, subject to the provisions of Subsection (20) of Section 25.

(4) Height Regulations. No building or structure shall be hereafter erected, enlarged or structurally altered to exceed a height of 30 feet without approval of a Conditional Use Permit.

(5) Lot Requirements. The following lot requirements shall be observed:

(a) Lot Area: Every lot shall have a minimum area of [~~4,500~~] **2,500** square feet for the first unit plus [~~the minimum~~] **2,000 square feet per** unit **thereafter.** [~~square footages based upon the number of bedrooms per dwelling unit in the following table~~:

~~Studio or efficiency~~	~~500 square feet~~
~~1 Bedroom~~	~~600 square feet~~
~~2 Bedrooms~~	~~1,000 square feet~~
~~3 Bedrooms~~	~~1,500 square feet~~
~~4 Bedrooms~~	~~2,000 square feet~~

~~provided that the overall density shall not exceed one dwelling unit per 2,000 square feet of lot area.~~] A lot having a width of less than 50 feet, and an area of less than [~~4,500~~] **2,500** square feet of record at the time of the passage of this ordinance, may be occupied by one single-family dwelling provided that all the yard requirements of this section are observed.

(b) Lot Width: Every lot shall have a minimum width of [~~50~~] **30** feet. **The lot width may be reduced to 20 feet for lots in an approved zero lot line subdivision.**

(c) Front Yard: The front yard shall be a minimum of [~~20~~] **10** feet except [~~that on corner lots one front yard need not exceed 10 feet~~] **a garage or carport shall be a minimum of 20 feet**.

(d) Side Yard: There shall be a minimum side yard of 5 feet and the sum of the side yards shall be a minimum of [~~15~~] **10** feet. The side yards shall be increased by ½ foot for each foot by which the building height exceeds 15 feet.

(e) Rear Yard: There shall be a rear yard having a depth of not less than 5 feet. The rear yard shall be increased by ½ foot for each foot by which the building height exceeds 15 feet.

(f) Side and rear yard setbacks for duplexes and triplexes are subject to standards in Section 23 (d) and (e).

(g) For single family residences, the side yard shall be a minimum of five feet on one side and a total of the two side yards shall be ~~15~~ **10** feet. The rear yard shall be a minimum of five feet.

(h) Lot Coverage: Maximum lot coverage by buildings and structures shall be 40 percent of the total lot area.

(i) Zero Lot Line Subdivision or Partition: Regulations for a side yard setback may be waived for an approved zero lot line subdivision or partition.

(j) Solar Setback: The solar setback as prescribed in Section 26A

(6) Off-Street Parking. Off-street parking shall be provided as required in Section 24.

(7) Special Yards and Distances Between Buildings. The following special yards and distances between buildings shall be observed:

(a) An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet.

The distance between principal buildings shall be at least 10 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space.

Section 4. Section 12 of Zoning Ordinance No. NS-1178 is hereby amended as follows:

Section 12. Urban High Density Residential Zone, or RH Zone.

(1) Purpose. This zone is intended to provide for high density multiple-family developments in locations close to shopping and services, transportation or public open space, and, in appropriate locations to provide a transitional use area between residential areas and other less restrictive zones. The professional and office uses included in this zone are intended to enhance the function of this zone in transitional areas and to encourage this transition in a more residential character.

(2) Permitted Uses. The following uses are permitted subject to the provisions of Section 23.

(a) Duplexes.
(b) Two single-family dwellings on one lot, provided that no dwelling is located within 10 feet of any other dwelling on the same lot, and also provided that all lot area, yard and coverage requirements set forth in Subsection (5) of Section 12 are observed. There shall be provided for the rear dwelling unoccupied and unobstructed access not less than 15 feet wide to the street fronting the lot.
(c) Multiple-family dwellings, apartment houses and dwelling groups and condominiums.
(d) Rooming and boarding houses.
(e) Offices for: architect or designer, accountant, attorney, dentist, physician or other practitioner of the healing arts, engineer, insurance agent or adjuster, investment or management counselor, surveyor, wholesale lumber broker and real estate broker.
(f) Medical and dental clinics and laboratories and pharmacy located within a clinic.
(g) Nursing and convalescent homes.
(h) Nursery schools, kindergartens and day-care facilities, subject to Subsection (17) of Section 25.
(i) Mobile home park.
(j) Photographic studios excluding retail sales of cameras, equipment, film or supplies.
(k) Off-street parking lots when appurtenant to a permitted use **in an abutting commercial or industrial zone**.
(l) Necessary and incidental services such as a dining room, barber shop, beauty shop, hobby shop, etc., included within apartment buildings provided that the facilities are used by and services rendered to only tenants of the building and their guests.
(m) Incidental services in commercial buildings, including restaurants, florist, barber shop, beauty shop, hobby shop included within an existing building otherwise permitted in the RH zone. There shall be no signs visible from the exterior of the building, there shall be no exterior public access to the use, the hours of operation shall be limited to the hours for the uses permitted in the building and there shall be no exterior seating or displays. The parking for such uses shall be limited to one space per 300 square feet of gross floor area. These uses shall be limited in size to commercial buildings with the following gross square footage:

Buildings 10,000 to 50,000 square feet	1,000 square feet
Buildings over 50,000 square feet	1,500 square feet

(3) Conditional Uses. The following conditional uses may be permitted subject to a Conditional Use Permit and the provisions of Section 29.

(a) Public, parochial and private schools, but not including business, technical or similar schools.
(b) Dancing or music schools.
(c) Parks, recreation facilities, fire stations, libraries, museums; but not including storage or repair yards, warehouses or similar uses.
(d) Utility substations or pumping stations with no equipment storage and sewage treatment facilities.
(e) Hospital, laboratory, orthopedic supply house, sanitarium (except animal hospital and clinic, hospital or sanitarium for contagious, mental, drug or liquor addict cases).
(f) Planned Unit Development.
(g) Club, lodge and fraternal organization except those carried on as a business for profit.
(h) Off-street parking lots when contiguous to a less restrictive zone. For required development standards see Section 24.
(i) Motel, apartment hotel, when located near hospitals or similar facilities, restaurants and bars within a hotel provided there is no external advertising.
(j) Mortuaries.
(k) Housing for the elderly (see Subsection (18) of Section 25).
(l) Buildings in excess of 45 feet **in height**.
(m) Single-family dwelling.
(n) Churches.
(o) Timeshare unit or the creation thereof, subject to the provisions of Section 25.
(p) Beauty and barber shop.

(4) Height Regulations. No building or structure shall hereafter be erected, enlarged or structurally altered to exceed a height of 45 feet without approval of a Conditional Use Permit.

(5) Lot Requirements. The following lot requirements shall be observed:

~~[(a) Lot area: Every lot shall have a minimum area of 5,000 square feet for the first unit plus the minimum square footages based upon the number of bedrooms per dwelling unit in the following table 1,000 square feet for each unit thereafter:~~

	~~Land Area 1st & 2nd Floor~~	~~Land Area 3rd Floor and above~~
~~Studio or Efficiency~~	~~650 square feet~~	~~250 square feet~~
~~1 Bedroom~~	~~900 square feet~~	~~500 square feet~~
~~2 Bedrooms~~	~~1,250 square feet~~	~~1,000 square feet~~
~~3 Bedrooms~~	~~1,850 square feet~~	~~1,550 square feet~~
~~4 Bedrooms~~	~~2,100 square feet~~	~~1,850 square feet~~

~~provided that the overall density does not exceed one dwelling unit per 1,000 square feet of lot area. A lot having a width of less than 50 feet, and an area of less than 5,000 square feet of record at the time of the passage of this Ordinance may be occupied by one single family dwelling provided that all the yard requirements of this section are observed.~~]

(a) Lot Area: Every lot shall have a minimum area of 2,500 square feet for the first unit plus 1,000 square feet for each additional dwelling unit.

(b) Lot Width: Every lot shall have a minimum width of [~~50~~] **30** feet. **The minimum lot width may be reduced to 20 feet if part of a zero lot line subdivision.**

(c) Front Yard: The front yard shall be a minimum of 10 feet except on corner lots where vision clearance requirements shall apply.

(d) Side Yard: Side yards shall be a minimum of 5 feet. The side yards shall be increased by ½ foot for each foot by which the building height exceeds 15 feet.

(e) Rear Yard: The rear yard shall be a minimum of 5 feet. A rear yard shall be increased by ½ foot for each foot by which the building height exceeds 15 feet.

(f) Side and rear yard setbacks for duplexes and triplexes are subject to standards in Section 23 **(11)** (d) and (e).

(g) For single family residences, the side yard setbacks shall be a minimum of five feet on one side and the total of the two side yards shall be [~~five~~] **ten** feet.

(h) Lot Coverage: Maximum lot coverage by buildings and structures shall be 50 percent of the lot area.

(I) Solar Setback: The solar setback as prescribed in Section 26A.

(6) Off-Street Parking. Off-street parking shall be provided as required in Section 24.

(7) Special Yards and Distances between Buildings. Special yards and distances between buildings shall be provided as follows:

(a) An inner court providing access to double-row dwelling groups shall be a minimum of 20 feet in width.

(b) The distance between principal buildings shall be at least 10 feet. This requirement shall also apply to portions of the same buildings separated from each other by a court or other open space.

Read for the first time the 18th day of November, 1998.

Read for the second time the 2nd day of December, 1998.

Placed upon its passage the 2nd day of December, 1998.

YES: 7 NO: 0

Authenticated by the Mayor the 2nd day of December, 1998.

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1709

AN ORDINANCE AMENDING THE RESIDENCY REQUIREMENTS FOR THE CIVIL SERVICE FOR FIRE FIGHTERS AND OTHERWISE AMENDING AND UPDATING THE BEND CODE TO COMPLY WITH CURRENT CITY POLICIES AND PRACTICES, STATE AND FEDERAL LAWS.

THE BEND CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 1.406 is amended to read:

1.406 Qualifications and Removal of Commissioners. A commissioner shall be an American citizen, a City resident **[**for at least three years immediately preceding the appointment**]** and an elector of Deschutes County. The City Council may, be resolution, remove a member of the **[**c**]**Commission from office for incompetence, dereliction of duty, malfeasance in office, or other good cause, after giving the commissioner a copy of the charges and an opportunity to be heard in person or by counsel after not less than 10 days' notice.

Section 2. Bend Code Section 1.408 is amended to read:

1.408 Commission: Organization: Meetings: Quorum: Immediately after its appointment, the Commission shall organize by electing one of its members as chairperson. It shall hold meetings necessary for the proper discharge of its duties. Notice **[**in accordance with state law**]** shall be given to all members, and the Bend Fire Fighters Association. The chairperson of two members of the **[**c**]**Commission may call a meeting. Two members of the Commission constitute a quorum, and the votes of two members shall be sufficient for the decisions and the transaction of the business of the **[**c**]**Commission.

Section 3. Bend Code Section 1.410 (6) shall be deleted.

[(6) Establish and maintain in card index or other suitable form a roster of officers and employees of the Fire Department.**]**

Section 4. Bend Code Section 1.410 (7) is amended to read:

(**[**7**]6**) Provide for, formulate, and hold competitive tests, or constitute and appoint suitable agencies therefor, for the purpose of determining the relative qualifications of persons who seek employment in any classified position under civil service and to establish eligible lists for the various classified positions. **[**To provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes shall be the last persons, including probationers, that have been appointed to the Fire Department. Removal shall be accomplished by suspending in numerical order, commencing with the last person appointed to the Fire Department, all recent appointees to the Fire Department, until the reductions necessary have been accomplished. In the event the Fire Department is again increased in numbers, the persons suspended under the terms of this section shall be reinstated before any new appointments to the Fire Department are made.**]**

Section 5. Bend Code Section 1.410 (8) is amended to read:

(**[**8**]7**) Certify to the appointing authority on written request, the names of the three persons highest on the eligible list for the class to fill a vacant position. If there are no lists, the **[**c**]**Commission shall authorize a provisional or temporary appointment list. A temporary or provisional appointment shall not continue for a period longer than four months and no person shall receive more than one provisional appointment or serve more than four months as a provisional appointee in any one fiscal year.

Section 6. Bend Code Section 1.412 is amended to read:

1.412 Those Subject to Civil Service. The civil service applies to and is a classified service of all **full time, paid** positions now existing or hereafter created in the

[full paid] Fire Department, [including] **excluding** that of Fire Chief **and clerical support positions**. All present incumbents and all future appointees shall be subject to civil service. All department appointments and promotions shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person shall be suspended, discharged, reinstated, or transferred from any such place, position, or employment contrary to the provisions of Sections 1.400 to 1.436.

Section 7. Bend Code Section 1.416 is amended to read:

1.416 Tenure of Office; Causes and Manner of Discharge. The tenure of every person holding an office, place, position, or employment in the classified service**, and the causes and manner of their discharge,** shall be determined in compliance and conformity with the terms and conditions of [this section] **the City of Bend Personnel Policies, City of Bend Rules and Regulations for Civil Service for Paid Firefighters and/or the Bend Fire Fighters Association labor contract, as applicable**. [No person employed as a fire fighter, ambulance technician or ambulance supervisor under the classified service shall be removed or discharged, suspended, or demoted, or reduced in rank for any political or religious reason or purpose. Any paid fire fighter under the classified civil service may be removed or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

(1) Incompetency, inefficiency, or inattention to or dereliction of duty.

(2) Dishonesty, immoral, disgraceful, or prejudicial conduct, insubordination, discourteous treatment of the public or a fellow employee, any act or omission tending to injure the public service, any other willful failure of proper conduct on the part of the employee, or any willful violation of the provisions of Sections 1.400 to 1.436 or the rules and regulations of the [c]Commission.

(3) Drunkenness, intemperance, or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid, or preparation to such extent that the use interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the functions and duties of any position under civil service.

(4) Mental or physical unfitness for the position which the employee holds.

(5) Conviction of a felony or a misdemeanor involving moral turpitude.

(6) Any other act or failure to act which in the judgment of the [c]Commission shows the offender to be an unsuitable and unfit person to be employed in the public service.]

Section 8. Bend Code Section 1.418 is amended to read:

1.418 Dismissal, Demotion, Suspension; Hearing; Findings.

(1) No person in the classified civil service who has been permanently appointed or inducted into civil service under provision of Sections 1.400 to 1.436 shall be removed, suspended, demoted, or discharged except for a cause, and only upon the written accusation of the appointing power. [A written statement of the accusation in general terms shall be served upon the accused, and a duplicate filed with the commission.]

(2) Any permanent employee who has been removed, suspended, demoted, or discharged may, within 10 days from the time of removal, suspension, demotion or discharge, file with the [c]Commission a signed written demand for an investigation. If the demand alleges, or if it otherwise appears to the [c]Commission, that the dismissal was not made in good faith for cause, the [c]Commission shall conduct an investigation and hold a public hearing within

30 days from the time appeal is filed. Appellant may be represented by counsel. The investigation shall be confined to the determination of the question of whether the dismissal was made in good faith for cause. The investigation shall be confined to the determination of the question of whether the removal, suspension, demotion, or discharge was made **[**for political or religious reasons and whether it was made**]** in good faith for cause.

(3) After the investigation the **[**c**]**Commission may affirm the **[**removal**]** **order of the appointing power**, or, if it finds that the removal, suspension, or demotion **[**was made for political or religious reasons or**]** was not made in good faith for cause, it **[**shall order the immediate reinstatement or reemployment of the person in the office, place, position, or employment from which such person was removed, suspended, demoted, or discharged. Reinstatement shall, if the compensation from the time of such removal, suspension, demotion, or discharge. The commission upon investigation,**]** may overturn **or** modify the order **[**of removal, suspension, demotion, or discharge by directing a suspension without pay for a given period and subsequent restoration of duty, or demotion in classification, grade, or pay**]**. The findings of the **[**c**]**Commission shall be certified in writing to, and immediately enforced by, the appointing power.

Section 9. Bend Code Section 1.422 (1) is amended to read:

1.422 Appointments to Vacant Positions; Certification From Lists.

(1) Whenever a position in the classified service becomes vacant, **[**the appointing power shall request the commission for the name and address of a person eligible for appointment. The commission shall certify the names of the three persons highest on the eligible list for the class to which the vacant position has been allocated, who are willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the names of the three persons standing highest on the list held appropriate for such class. If more than one vacancy is to be filled, an additional name shall be certified for each additional vacancy. The appointing power shall appoint one person to each vacant position.**]** **appointments shall be made in accordance with the City of Bend Personnel Policies, City of Bend Rules and Regulations for Civil Service for Paid Firefighters and/or the Bend Fire Fighters Association labor contract, as applicable.**

Section 10. Bend Code Section 1.422 (2), (3) and (4) shall be deleted.

[(2) Whenever a request is made, or a position is held by a temporary appointee and an eligible list for the class of the position exists, the comission shall certify the names of three persons eligible for appointment to the appointing power, and the appointing power shall appoint one of the persons to the position. No person so appointed shall be laid off, suspended, or given leave of absence from duty, transferred, or reduced in pay or grade except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

(3) No appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of nine months' probationary service. During the probationary period the appointing power may at any time terminate the employment of any person certified to it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power considers the person unfit or unsatisfactory for service in the position to be filled. If so, the appointing power shall choose a person certified on the eligible list provided and the person shall enter service, and selection shall proceed in this manner until some person is found who satisfactorily meets the tests and requirements of the probationary period, and the appointment, or promotion becomes complete.

(4) If applicants for a position as paid fire fighter in the City of Bend have equal

qualifications, preference shall be given to persons who reside with the City of Bend.]

Section 11. Bend Code Section 1.426 shall be deleted.

[1.426 Certification of Payrolls.

(1) The commission shall certify in writing to the payroll officer of the City.

(a) The name of each person appointed or employed subject to Sections 1.400 to 1.436, stating each case, the title or character of the position held by the person, the salary or compensation assigned, and the date of the beginning of the person's service.

(b) Every change occurring in any position held by a person whose employment is subject to Sections 1.400 to 4.436.

(2) Certification shall be made by the commission annually.

(3) The commission shall notify the payroll officer of the City of the names of any persons employed in violation of Sections 1.400 to 1.436 or regulations established under their authority.]

Section 12. Bend Code Section 1.428 shall be deleted.

[1.428 Leave of Absence. Leave of absence, with or without pay, may be granted by any appointing power to any person under civil service. The recorder shall give notice of the leave to the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service.]

Read for the first time the 2nd day of December, 1998.

Read for the second time the 16th day of December, 1998.

Placed upon its passage the 16th day of December, 1998.

YES: 6 NO: 0

Authenticated by the Mayor the 16th day of December, 1998.

Bob Woodward, Mayor

ATTEST:

City Recorder

ORDINANCE NO. NS-1710

AN ORDINANCE IMPOSING A LIMITATION ON SIGNS ORIENTED TOWARDS THE BEND PARKWAY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The City of Bend Sign Code shall be amended by adding the following limitations, in a new Section 8.005.

> **8.005 Limitation. No sign permits for billboards or outdoor advertising signs, or ground mounted signs which exceed 10-feet in vertical height and 8-feet in horizontal width shall be issued pursuant to the City of Bend Sign Code, nor shall any such signs be installed, which are oriented toward the Bend Parkway, within a distance of two-hundred feet from each side of the Bend Parkway right-of-way. This limitation shall be for a period of six months from the effective date of this ordinance, or until a new sign code regulating these signs is adopted, whichever occurs first. A sign shall be considered as oriented toward the Bend Parkway if it would have not have been installed but for the potential of display to, and viewing from, traffic on the Bend Parkway.**

Section 2. The existing regulations of the City of Bend Sign Code were developed prior to the construction of the Bend Parkway; and these regulations do not adequately deal with the new sign regulation situation presented by the Bend Parkway. Because signs oriented toward the Bend Parkway have been installed along portions of the Bend Parkway that have been opened to public travel, it is necessary and desirable for the protection of public health, safety and welfare to not permit any signs described in this amendment until there is an opportunity to review the kind of regulation that will be required by this new situation, and develop whatever regulations are necessary to provide whatever sign regulation is needed.

Read for the first time the 16th day of December, 1998.

Read for the second time the 28th day of December, 1998.

Placed upon its passage the 28th day of December, 1998.

YES: 5 NO: 1

Authenticated by the Mayor the 28th day of December, 1998

Bob Woodward, Mayor

ATTEST:

Patricia Stell, City Recorder

Ordinance # 99-711

VOL: 1999 PAGE: 5961
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Feb. 5, 1999; 10:35 a.m.

RECEIPT NO: 1775

DOCUMENT TYPE: Ordinance
(County or City)

FEE PAID: $10.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

*1999-5961 * Vol-Page 02/05/1999 10:35:57

ORDINANCE NO. NS-1711

99-5961-1

AN ORDINANCE VACATING A PUBLIC UTILITY EASEMENT THAT LIES WITHIN SE1/4 OF SECTION 6, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on August 5, 1998 requesting that the following described area be vacated:

> All that property being a portion of the SE1/4 of Section 6, Township 18 South, Range 12 East, W.M., in the City of Bend, Deschutes County, Oregon; described as follows:
>
> That 10' X 10' public utility easement lying within Parcel 1 of Partition Plat No. 1998-19, as shown on that map on the file with the Deschutes County Surveyor as CS 13253. Said public utility easement lies adjoining the north line of said Parcel 1 and the northwesterly right-of-way of Emkay Drive.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 16th day of December, 1998, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described PUE located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 16th day of December, 1998.

Read for the second time the 20th day of January, 1999.

Placed upon its passage the 20th day of January, 1999.

Yes: 6 No: 0

Authenticated by the Mayor the 20th day of January, 1999.

Jim Young

Jim Young, Mayor

ATTEST:

Patricia S Stell

Patricia Stell, City Recorder

AFTER RECORDING, RETURN TO:
CITY OF BEND
CITY RECORDER
P.O. BOX 431
BEND OR 97709

236

99-5962-1

ORDINANCE NO. NS-1712

AN ORDINANCE VACATING A SEWER EASEMENT THAT LIES WITHIN SE1/4 OF NE1/4 OF SECTION 24, TOWNSHIP 17 SOUTH, RANGE 11 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on September 3, 1998 requesting that the following described area be vacated:

> All that property being a portion of the SE1/4 of the NE1/4 of Section 24, Township 17 South, Range 11 East, W.M., in the City of Bend, Deschutes County, Oregon; described as follows:
>
> That sewer easement lying within lot 91 of Awbrey Glen Homesites, Phase 5, as shown on that plat map on the file with the Deschutes County Surveyor.

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above alley right of way to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 16th day of December, 1998, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described easement located in Bend, Deschutes County, Oregon, be vacated.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 16th day of December, 1998.

Read for the second time the 20th day of January, 1999.

Placed upon its passage the 20th day of January, 1999

Yes: 6 No: 0

Authenticated by the Mayor the 20th day of January, 1999

Jim Young

Jim Young, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City Recorder

After Recording Return to:
City Recorder
City of Bend
PO Box 431
Bend OR 97709

ORDINANCE # 99-1712

VOL: 1999 PAGE: 5962
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Feb. 5, 1999; 10:35 a.m.

RECEIPT NO: 1775

DOCUMENT TYPE: Ordinance
(County or City)

FEE PAID: $10.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

*1999-5962 * Vol-Page 02/05/1999 10:36:05

W&H PACIFIC
920 S.W. Emkay Dr., Suite C-100
Bend, Oregon 97702

Exhibit "A"
Ordinance No. NS-1713

LEGAL DESCRIPTION

All that property being a portion of the southeast quarter of the southwest quarter (SE¼SW¼) of Section 6, Township 18 South, Range 12 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, described as follows:

Beginning at the intersection of the northeasterly right-of-way of West Ridge Avenue and the southeasterly right-of-way of Mountaineer Way, as shown on that record of survey by David Evans & Associates on file with the Deschutes County Surveyor as CS 11553; thence along said southeasterly right-of-way of Mountaineer Way along the arc of a 330.00 foot radius curve to the left through a central angle of 18°30'02", an arc length of 106.56 feet (the chord of which bears North 40°26'10" East, 106.09 feet); thence North 31°11'12" East, 182.66 feet; thence North 36°34'18" East, 159.74 feet to the southwesterly right-of-way of Mt. Washington Drive and a point on a non-tangent 1060.00 foot radius curve to the right; thence along said curve through a central angle of 10°22'50", an arc length of 192.05 feet (the chord of which bears South 51°11'25" East, 191.78 feet); thence South 46°00'00" East, 129.67 feet to the northwesterly right-of-way of Century Drive; thence along said northwesterly right-of-way of Century Drive, South 42°18'42" West, 20.01 feet; thence South 42°43'27" West, 183.53 feet to the beginning of a non-tangent 540.00 foot radius curve to the right; thence along said curve through a central angle of 05°51'30", an arc length of 55.21 feet (the chord of which bears South 43°14'20" West, 55.19 feet) to the beginning of a non-tangent reverse 1261.42 foot radius curve to the left; thence along said curve through a central angle of 18°11'48", an arc length of 400.62 feet (the chord of which bears South 31°21'17" West, 398.94 feet); thence leaving said northwesterly right-of-way of Century Drive, North 68°55'09" West, 5.13 feet to said northeasterly right-of-way of West Ridge Avenue and the beginning of a non-tangent 305.00 foot radius curve to the left; thence along said northeasterly right-of-way of West Ridge Avenue and along said curve through a central angle of 53°11'40", an arc length of 283.17 feet (the chord of which bears North 08°30'06" West, 273.11 feet); thence North 35°05'56" West, 126.53 feet to the Point of Beginning.

Contains 3.40 acres, more or less.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Kenneth A. Fisher
OREGON
JANUARY 21, 1997
KENNETH A. FISHER
2802
RENEWAL DATE: 12/99

13260503\tl108.leg
11/20/98

ORDINANCE NO. NS-1713

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN, BY CHANGING THE DESIGNATION OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL AND CL, COMMERCIAL LIMITED TO RM, URBAN MEDIUM DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated November 17, 1998, file number PZ-98-191.

Section 2. The Bend Area General Plan is amended by changing the designation of the property described in "Exhibit A" from Urban Standard Density Residential (RS) and Commercial Limited (CL) to Urban Medium Density Residential (RM).

Read for the first time the 16th day of December, 1998.

Read for the second time the 20th day of January, 1999.

Placed upon its passage the 20th day of January, 1999.

YES: 6 NO: 0

Authenticated by the Mayor the 20th day of January, 1999.

Jim Young

Jim Young, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1714

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-I 178, BY CHANGING THE ZONE OF *A* PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated November17, 1998, file number PZ-98-191.

Section 2. Section 7(1) of Ordinance NS- 1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM).

Read for the first time the 16th day of December, 1998.

Read for the second time the 20th day of January, 1999.

Placed upon its passage the 20th day of January, 1999.

YES: 6 NO: 0

Authenticated by the Mayor the 20th day of January, 1999.

Jim Young, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

W&H PACIFIC
920 S.W. Emkay Dr., Suite C-100
Bend, Oregon 97702

Exhibit "A"
Ordinance No. NS-1714

LEGAL DESCRIPTION

All that property being a portion of the southeast quarter of the southwest quarter (SE¼SW¼) of Section 6, Township 18 South, Range 12 East, Willamette Meridian, in the City of Bend, Deschutes County, Oregon, described as follows:

Beginning at the intersection of the northeasterly right-of-way of West Ridge Avenue and the southeasterly right-of-way of Mountaineer Way, as shown on that record of survey by David Evans & Associates on file with the Deschutes County Surveyor as CS 11553; thence along said southeasterly right-of-way of Mountaineer Way along the arc of a 330.00 foot radius curve to the left through a central angle of 18°30'02", an arc length of 106.56 feet (the chord of which bears North 40°26'10" East, 106.09 feet); thence North 31°11'12" East, 182.66 feet; thence North 36°34'18" East, 159.74 feet to the southwesterly right-of-way of Mt. Washington Drive and a point on a non-tangent 1060.00 foot radius curve to the right; thence along said curve through a central angle of 10°22'50", an arc length of 192.05 feet (the chord of which bears South 51°11'25" East, 191.78 feet); thence South 46°00'00" East, 129.67 feet to the northwesterly right-of-way of Century Drive; thence along said northwesterly right-of-way of Century Drive, South 42°18'42" West, 20.01 feet; thence South 42°43'27" West, 183.53 feet to the beginning of a non-tangent 540.00 foot radius curve to the right; thence along said curve through a central angle of 05°51'30", an arc length of 55.21 feet (the chord of which bears South 43°14'20" West, 55.19 feet) to the beginning of a non-tangent reverse 1261.42 foot radius curve to the left; thence along said curve through a central angle of 18°11'48", an arc length of 400.62 feet (the chord of which bears South 31°21'17" West, 398.94 feet); thence leaving said northwesterly right-of-way of Century Drive, North 68°55'09" West, 5.13 feet to said northeasterly right-of-way of West Ridge Avenue and the beginning of a non-tangent 305.00 foot radius curve to the left; thence along said northeasterly right-of-way of West Ridge Avenue and along said curve through a central angle of 53°11'40", an arc length of 283.17 feet (the chord of which bears North 08°30'06" West, 273.11 feet); thence North 35°05'56" West, 126.53 feet to the Point of Beginning.

Contains 3.40 acres, more or less.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Kenneth A. Fisher
OREGON
JANUARY 21, 1997
KENNETH A. FISHER
2902
RENEWAL DATE: 12/99

13260503\tl108.leg
11/20/98

DAVID EVANS AND ASSOCIATES, INC.

709 NW Wall Street
Suite 102
Bend, Oregon 97701
Tel: 541.389.7614
Fax: 541.389.7623

Ordinance No. NS-1715
EXHIBIT A

SKYLINERS SUMMIT

Land to be Included in the UGB

Two parcels located in the northwest 1/4 of Section 1 of Township 18 South and Range 11 East of the Willamette Meridian, Deschutes County, Oregon as shown on the attached map and fully described as follows:

PARCEL 1

Commencing at the northwest corner of said Section 1; thence South 89°38'58" East 901.64 feet along the north line of said Section 1 to the point of beginning; thence South 89°38'58" East 1034.69 feet; thence leaving said north line, South 55°59'14" West 380.77 feet; thence South 59°25'25" West 830.45 feet; thence North 34°57'11" West 534.84 feet; thence North 55°02'49" East 147.07 feet; thence 72.70 feet along the arc of a 2020.00 foot radius curve right (the long chord of which bears North 56°04'41" East 72.70 feet); thence North 57°06'33" East 144.67 feet to the point of beginning. Contains 10.09 acres.

PARCEL 2

Commencing at the northwest corner of said Section 1; thence South 89°38'58" East 2153.76 feet along the north line of said Section 1 to the point of beginning; thence South 89°38'58" East 264.66 feet; thence leaving said north line, South 03°06'41" West 529.13 feet; thence North 87°23'48" West 125.24 feet; thence 93.12 feet along the arc of an 830.00 foot radius curve left (the long chord of which bears South 89°23'21" West 93.07 feet); thence North 03°06'41" East 487.65 feet; thence North 49°04'34" West 58.53 feet to the point of beginning. Contains 2.65 acres.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
JULY 18, 1980
JERRY C. POWELL
1919

April 8, 1998
o:\ssip0008\ugbin.jcp

DAVID EVANS AND ASSOCIATES, INC.

709 NW Wall Street
Suite 102
Bend, Oregon 97701
Tel: 541.389.7614
Fax: 541.389.7623

Ordinance No. NS-1715
EXHIBIT B

SKYLINERS SUMMIT

Land to be Excluded from the UGB

A parcel located in the southwest 1/4 of Section 36 of Township 17 South and Range 11 East of the Willamette Meridian, Deschutes County, Oregon as shown on the attached map and fully described as follows:

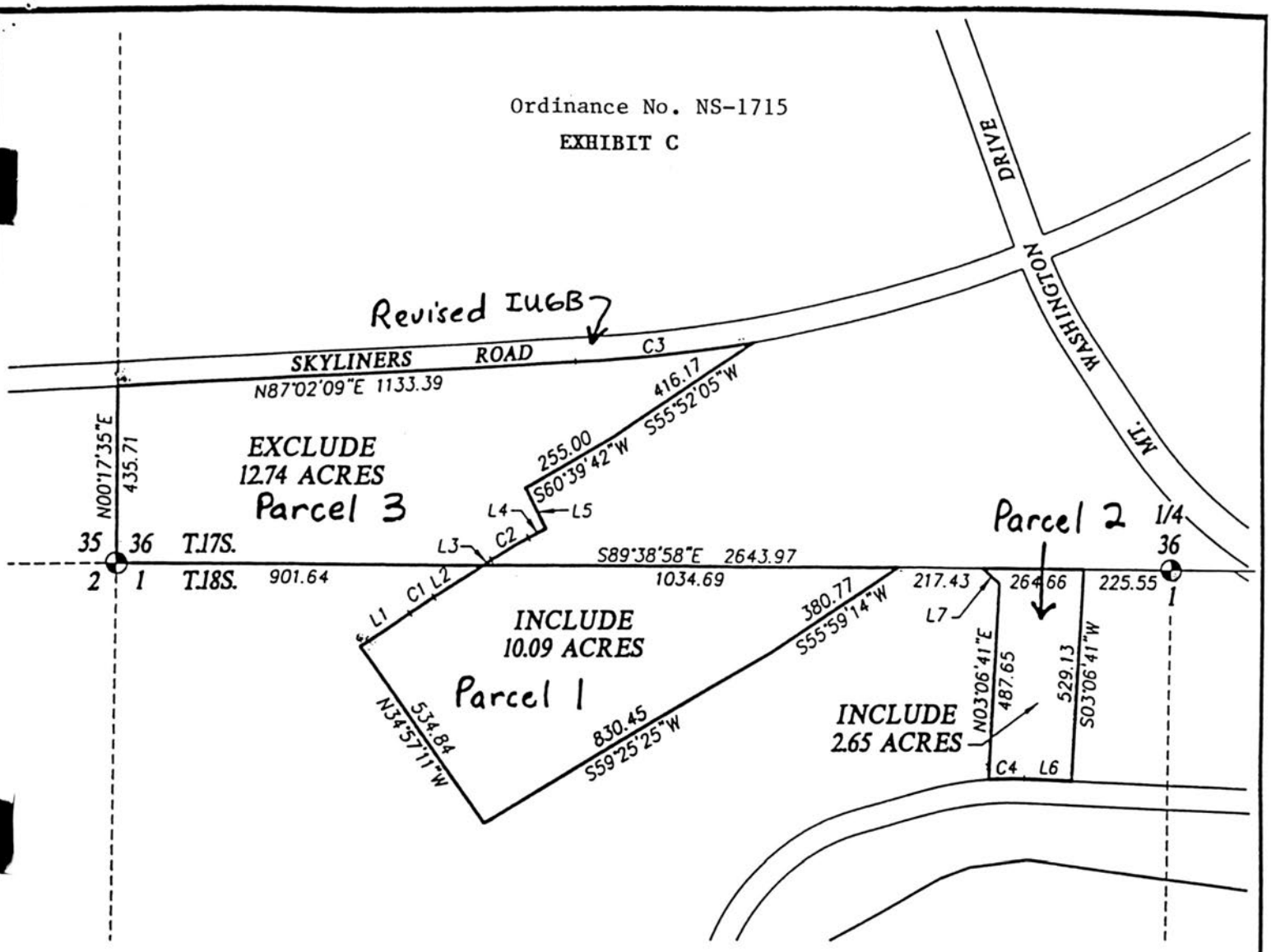
Beginning at the southwest corner of said Section 36; thence North 00°17'35" East 435.71 feet, along the west line of said section, to the southerly right-of-way of Skyliners Road; thence leaving said west line and following said right-of-way, North 87°02'09" East 1133.39 feet; thence 445.07 feet along the arc of a 3780.00 foot radius curve left (the long chord of which bears North 83°39'46" East 444.81 feet); thence leaving said right-of-way, South 55°52'05" West 416.17 feet; thence South 60°39'42" West 255.00 feet; thence South 26°48'19" East 113.00 feet; thence South 63°11'41" West 49.19 feet; thence 108.34 feet along the arc of a 1020.00 foot radius curve left (the long chord of which bears South 60°09'07" West 108.29 feet); thence South 57°06'33" West 24.93 feet to the south line of said section; thence North 89°38'58" West 901.64 feet to the point of beginning. Contains 12.74 acres.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
OREGON
JULY 18, 1980
JERRY C. POWELL
1919

April 8, 1998
o:\ss1p0008\ugbex.jcp

Ordinance No. NS-1715

EXHIBIT C



NORTH

SCALE: 1" = 400'

LINE TABLE

LINE	DIRECTION	DISTANCE
L1	N55°02'49"E	147.07
L2	N57°06'33"E	144.67
L3	S57°06'33"W	24.93
L4	S63°11'41"W	49.19
L5	S26°48'19"E	113.00
L6	N87°23'48"W	125.24
L7	N49°04'34"W	58.53

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD	
C1	02°03'43"	2020.00	72.70	N56°04'41"E	72.70
C2	06°05'09"	1020.00	108.34	S60°09'07"W	108.29
C3	06°44'46"	3780.00	445.07	N83°39'46"E	444.81
C4	06°25'42"	830.00	93.12	S89°23'21"W	93.07

scale 1" = 400' design

date 4/09/98 drawn JHL

file SSLP0008 - SSLP8-F1.DWG

DAVID EVANS AND ASSOCIATES, INC.
709 NW Wall Street, Suite 102
Bend, Oregon 97701 (541) 389-7614

SKYLINERS SUMMIT UGB LAND EXCHANGE

SECTION 36, T.17S., R.11E., W.M.
SECTION 1, T.18S., R.11E., W.M.
DESCHUTES COUNTY, OREGON

ORDINANCE NO. NS-1715

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN URBAN GROWTH BOUNDARY.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Skyliner Summit Limited Partnership, Broken Top Limited Partnership and Cascade Highlands Limited Partnership have proposed the reconfiguration of the Bend Urban Growth Boundary (UGB). This boundary change is described in Exhibits "A" and "B" and shown in Exhibit "C"; and

Section 2. Notice of a public hearing on this request was provided in accordance with law.

Section 3. The County Hearings Officer made findings on the requested reconfiguration of the Urban Growth Boundary. Such findings are on pages 36 and 37 of the Hearings Officer's report, which was adopted as Exhibit "E" to the County Commissioners Ordinance 98-031 approving the change.

Section 4. The City Council hereby adopts all of said findings.

Section 5. The Deschutes County Board of Commissioners have reviewed and approved the proposed reconfiguration of the Urban Growth Boundary as established in the Bend Area General Plan.

Section 6. The City Council hereby accepts and approves the County's change to the Bend Area General Plan.

Section 7. The Bend Area General Plan Land Use Map is hereby amended to reconfigure the Urban Growth Boundary as described in Exhibit "A" and Exhibit "B", and as shown in Exhibit "C".

Read for the first time the 20th day of January, 1999.

Read for the second time the 3rd day of February, 1999.

Placed upon its passage the 3rd day of February, 1999.

YES: 7 NO: 0

Authenticated by the Mayor the 3rd day of February, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

99-20415-1

ORDINANCE NO. NS-1716

AN ORDINANCE CHANGING THE NAME OF ARTHUR AVENUE WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of Arthur Avenue be changed to P.S. Reed Market Rd.

Section 2. The effective date for the renaming of this street shall be 30 days following the adoption of this ordinance.

Read for the first time the 17th day of March, 1999.

Read for the second time the 7th day of April, 1999.

Placed upon its passage the 7th day of April, 1999.

YES: 6 NO: 0

Authenticated by the Mayor the 7th day of April, 1999

Jim Young

Jim Young, Mayor

ATTEST:

Patri S. Stell

Patricia Stell, City Recorder

After Recording Return to:
City Recorder
City of Bend
P.O. Box 431
Bend, OR 97709

ORDINANCE # NS-1716

VOL: 1999 PAGE: 20415
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Apr. 27, 1999; 8:33 a.m.

RECEIPT NO: 5139

DOCUMENT TYPE: Ordinance
(County or City)

FEE PAID: $10.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

*1999-20415 * Vol-Page Printed: 04/27/1999 08:33:56

ORDINANCE NO. NS-1717

AN ORDINANCE REGULATING TAXI SERVICES AND DEFINING TAXICAB.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 7.672 is amended to read:

7.672 Definition. For the purposes of sections 7.670 to 7.696, "taxicab" means ~~a motor~~ ***any*** vehicle including ***motor vehicles, animal drawn vehicles, human powered vehicles, and*** limousines, except motorbuses, used for transporting passengers for hire. Taxicabs used for hire shall be governed by and comply with the provisions of this Code.

Read for the first time the 17th day of March, 1999.

Read for the second time the 7th day of April, 1999.

Placed upon its passage the 7th day of April, 1999.

YES: 6 NO: 0

Authenticated by the mayor the 7th day of April, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1718

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, TO AMEND AN EXISTING CONDITIONAL USE TO ADD NON-PROFIT AND PUBLIC COMMUNITY SERVICE PROGRAMS FOR CHILDREN AND FAMILIES AND ADDING SPECIFIC LOTS ON WHICH THE USES ARE PERMITTED.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. Section 10(3) of NS-1178 is hereby amended to read:

(z) Diagnostic testing, [~~and~~] counseling, [~~service for allegedly abused children~~] **administrative, office and meeting facilities for non-profit and public community service programs for children and families,** limited specifically to Lots **4,** 5, 6, 7, 8**, 9 and 10,** Block 25**; and , Lots 1, 2, 3 and 4, Block 24,** N.W. Townsite Company's Second Addition to Bend.

Read for the first time the 3rd day of March, 1999.

Read for the second time the 7th day of April, 1999.

Placed upon its passage the 7th day of April, 1999.

YES: 6 NO: 0

Authenticated by the Mayor the 7th day of April, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1719

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN, BY CHANGING THE DESIGNATION OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL AND RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated February 8, 1999, regarding file number PZ-97-30; applicant Brian Groza.

Section 2. The Bend Area General Plan is amended by changing the designation of the property described in "Exhibit A" from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM) and Urban High Density Residential (RH).

Read for the first time the 21st day of April, 1999.

Read for the second time the 5th day of May, 1999.

Placed upon its passage the 5th day of May, 1999.

YES: 6 NO: 1

Authenticated by the Mayor the 5th day of May, 1999.

Jim Young

Jim Young, Mayor

ATTEST:

Patti J. Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1720

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL AND RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated February 8, 1999, regarding file number PZ-97-30; applicant Brian Groza; for property on the east side of 27th Street between Forum Drive and Grand Way as shown on map attached as "Exhibit B".

Section 2. The Zoning Map of the City of Bend is amended by changing the zoning designation of the property described as "Exhibit A" from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM) and Urban Medium Density Residential (RH).

Read for the first time the 21st day of April, 1999.

Read for the second time the 5th day of May, 1999.

Placed upon its passage the 5th day of May, 1999.

YES: 6 NO: 1

Authenticated by the Mayor the 5th day of May, 1999.

Jim Young

Jim Young, Mayor

ATTEST:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1721

AN ORDINANCE RATIFYING THE CREATION OF AN INTERGOVERNMENTAL AGENCY CREATED BY THE CENTRAL OREGON LAW ENFORCEMENT SERVICES.

WHEREAS, ORS 190.085 requires local governments to enact ordinances ratifying the creation of intergovernmental entities through intergovernmental agreements prior to the effective date of the agreement; and

WHEREAS, the Counties of Deschutes, Crook and Jefferson, the Cities of Bend, Prineville, Madras, Redmond and Black Butte Ranch Service District wish to establish an intergovernmental entity to effectively and efficiently provide coordinated responses to community law enforcement issues within Central Oregon; and

WHEREAS, the Parties have agreed that, as an intergovernmental entity, they will be able to provide the best possible law enforcement services under a number of programs to the population of Central Oregon; and

WHEREAS, the intergovernmental entity shall have the power to enter into contracts, provide agreed upon law enforcement services through the creation of programs established under COLES (Central Oregon Law Enforcement Services) and provide all administrative and support services necessary for the provision of these services;

WHEREAS, it is the intent of the City of Bend to create an intergovernmental entity by intergovernmental agreement; and

WHEREAS, the intergovernmental agreement shall be effective no later than May 1, 1999; now therefore,

THE BEND CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1.

The City of Bend ratifies the creation of the intergovernmental entity created by the Central Oregon Law Enforcement Services Agreement.

SECTION 2.

The City of Bend has the authority to repeal this ordinance with 90 days written notice to Deschutes, Crook and Jefferson Counties, the Cities of Madras, Prineville, Redmond and Black Butte Service District.

Read for the first time the 20th day of January, 1999.

Read for the second time the 19th day of May, 1999.

Placed upon its passage the 19th day of May, 1999.

YES: 7 NO: 0

Authenticated by the mayor the 19th day of May, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1722

AN ORDINANCE REQUIRING THAT FLAMMABLE VEGETATION BE REMOVED OR CUT TO ESTABLISH FUEL BREAKS AND THEREBY REDUCE FIRE HAZARD IN CERTAIN SITUATIONS.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 5.345 of the Bend Code is amended to read:

5.345 Flammable Vegetation Fuel Breaks.

(1) It shall be the responsibility of every property owner and occupier of property within the City of Bend to reduce the fire hazard created by flammable weeds, grass, vines, brush and other combustible vegetation on their property by complying with the requirements of this ordinance.

(2) Every property owner and occupier of property shall establish fuel breaks (also known as fire breaks) on their property in the following manner:

(a) A fuel break shall be created by removing or cutting all of the flammable weeds, grass, vines, brush and other combustible vegetation within the fuel break as close to the ground as is reasonably practicable given the nature of the terrain and the property.

(b) The fuel break shall be a minimum of ten feet in width or depth, or three times the height of the tallest vegetation adjacent to the fuel break, if this would be more than ten feet.

(c) The fuel breaks shall be located along the boundaries of the property; and also around any structures, power poles, vehicles, trees or other improvements on the property that would be vulnerable to a fire hazard created by flammable weeds, grass, vines, brush and other combustible vegetation.

(d) The purpose of the fuel breaks shall be to protect the property from the spread of fire from other properties; as well as confining any fire on the property by preventing its spread to other properties. In addition to the fuel breaks described above, the Fire Chief or his representative may direct the creation of additional fuel breaks for any situations not adequately covered by the fuel breaks described above. The Fire Chief or his representative may also permit smaller properties to comply with the purpose of this ordinance by cutting all of the flammable weeds, grass, vines, brush and other combustible vegetation on those properties to a prescribed height that will create a defensible fire space and accomplish the purpose of this ordinance.

(3) The requirements of this ordinance shall be interpreted and applied consistently with the Uniform Fire Code in effect within the City of Bend.

(4) A violation of this ordinance by any person, firm or corporation shall be a Class B Civil Infraction. In addition, any person, firm or corporation not complying with the provisions of this ordinance shall be subject to the abatement procedures provided in Bend Code Section 5.400 - 5.425.

[5.345 Noxious Growth.

(1) No owner or person in charge of property shall permit weeds or other noxious vegetation to grow on the property. It shall be the duty of an owner or person

in charge of property to cut down or to destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly, becoming a fire hazard, from going to seed, from obstruction clear vision areas or from growing more than 18" in height.

(2) Noxious weeds include, but are not limited to, Russian Thistle, Canadian Thistle, Chinese Thistle, White Mustard and Tim Holl Mustard.

(3) A violation of this section is a Class B. Civil Infraction.]

Read for the first time the 19th day of May, 1999.

Read for the second time the 2nd day of June, 1999.

Placed upon its passage the 2nd day of June, 1999.

YES: 7 NO: 0

Authenticated by the Mayor the 2nd day of June, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1723

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS 1178, BY CHANGING THE ZONE OFA PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has reviewed the applicants compliance with the Resolution of Intent, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated January 31,1997, regarding file number PZ-96-289; applicants Serge and Ellen Mellon for property at the southeast corner of Hayes Avenue and Blakely Road as shown on map attached as "Exhibit B".

Section 2. The Zoning Map of the City of Bend is amended by changing the zoning designation of the property described as "Exhibit A" from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM).

Read for the first time the 16th day of June, 1999.

Read for the second time the 7th day of July, 1999.

Placed upon its passage the 7th day of July, 1999.

YES: 6 NO: 0 ABSTAIN: 1

Authenticated by the Mayor the 7th day of July, 1999.

Jim Young, Mayor

ATTEST:

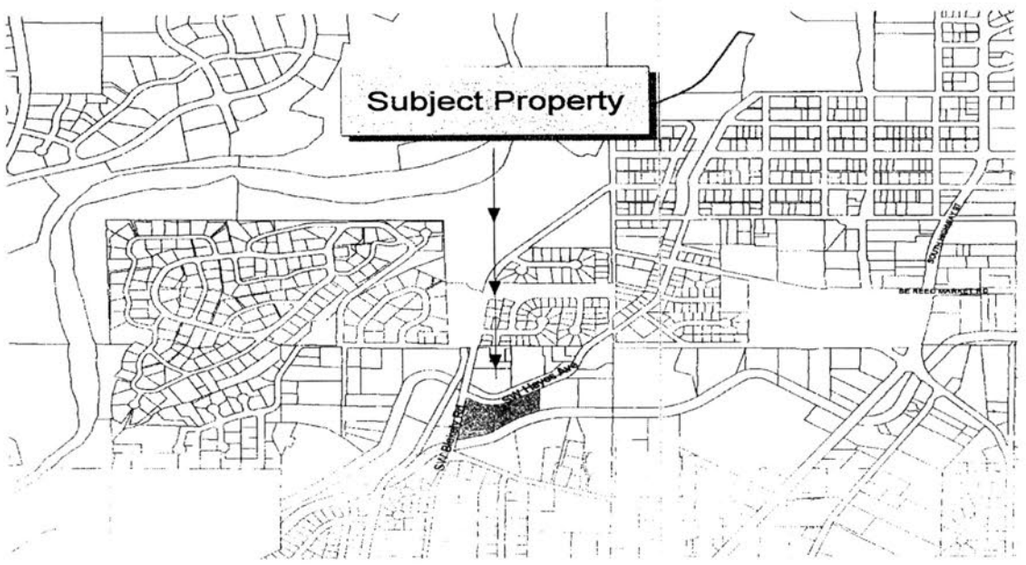
Patricia Stell, City of Bend Recorder

Exhibit A
Ordinance No. NS-1723

A tract or parcel of land in the Northeast Quarter of the Northwest Quarter (NE ¼ NW ¼) of Section 8, Township 18 South, Range 12, East of the Willamette Meridian, Deschutes County, Oregon, and lying between the right of way described as follow: Beginning at a point where the South bank of the Pilot Butte Canal intersects the West boundary of the NE ¼ NW ¼, Section 8, T. 18 S., R. 12, E.W.M.; thence South, approximately 32 rods along the West boundary line of said NE ¼ NW ¼ of said Section 8 to where said boundary line is intersected by the North bank of the Central Oregon Canal; thence in a Northeasterly direction along the said North bank of said Central Oregon Canal for a distance of 51 rods; thence North, approximately 16 rods to an intersection with the South bank of the Pilot Butte Canal; thence in a general Southwesterly direction along the said South bank of the said Pilot Butte Canal, approximately 51 rods to the point of beginning; EXCEPT the following described tract of land, to wit: Beginning at the point of intersection of the South line of the Pilot Butte Canal with the West line of said NE ¼ NW ¼; thence South 00°16'34" West along the West line of said NE ¼ NW ¼, 612.34 feet to a point on the North line of the Central Oregon Canal; thence North 85°46'30" East along the North line of the Central Oregon Canal, 15.3 feet to a point on the West line of the S.A. Blakely Road; thence North 09°20'34" East along the West line of the S.A. Blakely Road, 543.00 feet to a point on the South line of the Pilot Butte Canal; thence North 51°11'56" West, 125.42 feet along the South line of the Pilot Butte Canal to the point of beginning.

Exhibit B
Ordinance No. NS-1723

Applicants: Serge & Ellen Mellon
Planning File #96-289



595 sw hayes ave
Bend Parcels
Bend UGB



ORDINANCE NO. NS-1724

AN ORDINANCE EXTENDING LIMITATIONS ON SIGNS ORIENTED TOWARDS THE BEND PARKWAY; AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.005 of the City of Bend Sign Code shall be extended for an additional six months from the effective date of this ordinance. Section 8.005 provides:

> **8.005 Limitation. No sign permits for billboards or outdoor advertising signs or ground mounted signs which exceed 10-feet in vertical height and 8-feet in horizontal width shall be issued pursuant to the City of Bend Sign Code, nor shall any such signs be installed, which are oriented toward the Bend Parkway, within a distance of two-hundred feet from each side of the Bend Parkway right-of-way. This limitation shall be for a period of six months from the effective date of this ordinance, or until a new sign code regulating these signs is adopted, whichever happens first. A sign shall be considered as oriented toward the Bend Parkway if it would have not have been installed but for the potential of display to, and viewing from, traffic on the Bend Parkway.**

Section 2. The existing regulations of the City of Bend Sign Code were developed prior to the construction of the Bend Parkway; and these regulations do not adequately deal with the new sign regulation situation presented by the Bend Parkway. Because signs oriented toward the Bend Parkway have been installed along portions of the Parkway that have been opened to public travel, it is necessary and desirable for the protection of the public health, safety and welfare to not permit any signs described in this amendment until there is an opportunity to review the kind of sign regulation that will be required by this new situation, and develop whatever regulations are necessary to provide whatever sign regulation is needed. Therefore an emergency is declared to exist, and this ordinance shall take effect immediately upon its passage.

Read for the first time the 16th day of June, 1999.

Read for the second time the 7th day of July, 1999.

Placed upon its passage the 7th day of July, 1999.

YES: 7 NO: 0

Authenticated by the Mayor the 7th day of July, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1725

AN ORDINANCE PROVIDING PROCEDURES FOR DEALING WITH EMERGENCIES IN THE CITY OF BEND.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. The conditions required for the declaration of a state of emergency within the City of Bend shall be as set out in ORS 401.025(4), which provides:

> " 'Emergency' includes any man-made or natural events or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, crisis influx of migrants unmanageable by the county, civil disturbance, riot, sabotage and war."

Section 2. A declaration of a state of emergency within the City of Bend may be issued by the mayor (or the mayor pro tem when the mayor is absent or otherwise unable to perform the functions of mayor as provided in the City Charter); or the City Manager if the nature of the emergency requires that immediate action be taken and it is not reasonably practicable for the mayor to issue the declaration of emergency prior to the time immediate action must be taken. Any declaration of emergency by the City Manager shall be subject to review and revision by the mayor. All declarations of emergency shall be subject to review and revision by the City Council. A declaration of a state of emergency shall be terminated when the state of emergency ceases to exist.

Section 3. The City Council may by resolution establish procedures to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. These procedures may include, but are not limited to, the following measures:

(1) redirect City funds for emergency use and suspend standard City procurement procedures;

(2) establish a curfew which fixes the hours during which all persons other than officially authorized personnel may not be upon the public streets or other public places;

(3) prohibit or limit the number of persons who may gather or congregate upon any public street, public place, or any outdoor place;

(4) barricade streets and prohibit vehicular or pedestrian traffic, or regulate the same on any public street leading to the emergency area for such distance as may be deemed necessary under the circumstances;

(5) evacuate persons;

(6) prohibit the sale of alcoholic beverages;

(7) prohibit or restrict the sale of gasoline or other flammible liquids;

(8) prohibit the sale, carrying, or possession of any weapons or explosives of any kind on public streets, public places, or any outdoor place;

(9) curtail or suspend commercial activity;

(10) turn off water, gas, or electricity;

(11) order such other measures as are necessary for the protection of life or property, or for

the recovery from the emergency.

Section 4. The City Manager shall carry out the emergency duties or functions as prescribed by the resolution establishing procedures to deal with an emergency.

Section 5. No person shall knowingly violate any regulation promulgated pursuant to this ordinance, and imposed in a state of emergency declared under this ordinance. Violation of an emergency regulation shall be a Class A misdemeanor.

Section 6. Bend Code Section 1.520 (establishing an emergency management agency for the City with the City Manager as emergency program manager); and Bend Code Section 5.455 (authorizing the mayor or mayor pro tem to impose by proclamation regulations for dealing with civil emergencies as a result of mob action or riotous assembly) are repealed.

Section 7. Because the City will have prepared an Emergency Operations Plan for the first part of August, 1999 and it is necessary to adopt that plan by a resolution pursuant to Section 3 of this ordinance as soon as possible, an emergency is declared to exist; and this ordinance shall take effect immediately upon its passage.

Read for the first time the 7th day of July, 1999

Read for the second time the 21st day of July, 1999

Placed upon its passage the 21st day of July, 1999

YES: 6 NO: 0

Authenticated by the Mayor the 21st day of July, 1999

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder



Per phone call from City Attorney Ron Marceau 8/4/99:
The effect of ORD NS-1735 was to repeal Land Code Sections 5.450 through 5.460, not just Section 5.455 as the ORD indicate.

VOL: 1999 PAGE: 40380
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*1999-40380 * Vol-Page Printed: 08/19/1999 10:48:36

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME:	Aug. 19, 1999; 10:48 a.m.
RECEIPT NO:	10183
DOCUMENT TYPE:	Ordinance (County or City)
FEE PAID:	$10.00
NUMBER OF PAGES:	1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

99-40380-1

ORDINANCE NO. NS-1726

AN ORDINANCE ASSIGNING THE NAME OF MERVIN SAMPELS ROAD WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of Mervin Sampels Road be assigned.

Section 2. The effective date for the assignment of this street name shall be 30 days following the adoption of this ordinance.

Read for the first time the 7th day of July, 1999.

Read for the second time the 21st day of July, 1999.

Placed upon its passage the 21st day of July, 1999.

YES: 6 NO: 0

Authenticated by the Mayor the 21st day of July, 1999

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

AFTER RECORDING RETURN TO:
CITY RECORDER
CITY OF BEND
PO BOX 431
BEND OR 97709

ORDINANCE NO. NS-1727

AN ORDINANCE AMENDING THE DOWNTOWN PARKING DISTRICT BOUNDARY OF THE CITY OF BEND.

WHEREAS, the City has experienced a continuing increase in demand for commercial parking space in the downtown vicinity, including areas adjacent to the existing downtown district; and

WHEREAS, it is necessary to increase the area encompassed by the downtown district in order to effectively manage the parking spaces to serve business and residents in the downtown area;

NOW, THEREFORE, THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Bend Code Section 6.910 is amended by revising the downtown district boundary description to read as follows

> Beginning at the North side of Newport Avenue and the Deschutes River, thence South along the Deschutes River from Newport Avenue to the South side of Franklin Avenue, thence East on Franklin Avenue to the West side of Broadway Street, thence south on Broadway Street to the South side of Louisiana Avenue, thence East on Louisiana Avenue from Broadway Street to the West side of Wall Street, thence South on Wall Street from Louisiana Avneue to the South side of Kansas Street, thence Easterly from Kansas and Wall Street through the Administrative School District property to the Southeast corner of the intersection of Kansas and Lave Street, thence Northeast on Lava Street to the North side of Franklin Avenue, thence East from the Northeast corner of Franklin Avenue and Lava Street to the West side of Division Avenue, thence North on the West side of Division to the South side of Greenwood Avenue, thence West on Greenwood Avenue to the Southeast corner of Greenwood Avenue and Harriman Street, thence North (across Greenwood Avenue) to the Northeast corner of Greenwood Avenue and Harriman Street, thence West to the Northeast corner of Greenwood Avenue and Bond Street to the Junction of Bond Street and Wall Street, crossing Wall Street to the West side of Wall Street and the Northwest corner of Wall Street and Vermont Place, thence West along the North side of Vermont Place to the Deschutes River, thence South to the Point of Beginning (as shown on Attached Exhibit A).

Read for the first time the 21st day of July, 1999.

Read for the second time the 4th day of August, 1999.

Placed upon its passage the 4th day of August, 1999.

YES: 6 NO: 1

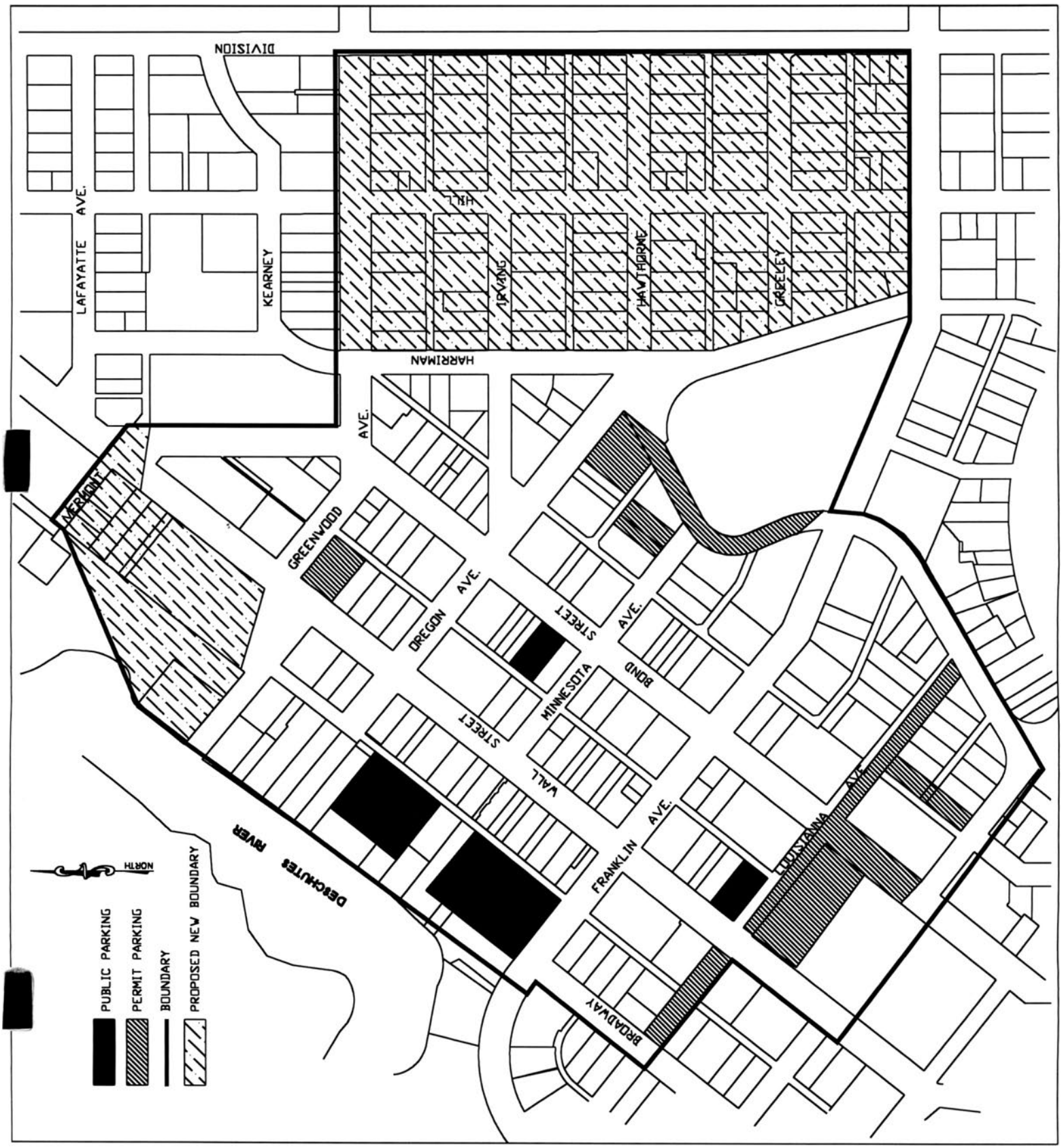
Authenticated by the Mayor the 4th day of August, 1999.

Jim Young, Mayor

ATTEST:

Paticia Stell, City Recorder

Exhibit A
Ordinance No. NS-1727



ORDINANCE NO. NS-1728

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN, BY CHANGING THE DESIGNATION OF A PARCEL OF LAND FROM RL, URBAN LOW DENSITY RESIDENTIAL TO CC, CONVENIENCE COMMERCIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated March 22, 1999, file number PZ-98-309.

The Hearings Officer recommends that City Council approve the proposed plan amendment subject to the following conditions:

1. The applicant shall submit a legal description of the subject property to the City of Bend Development Services Department.

2. The applicant shall enter into an agreement with the City by which the applicant agrees to dedicate right of way on the segments of 27th Street and Reed Market Road abutting the subject property in the amount required to satisfy the City's standards and specifications for each street. This agreement shall be executed prior to the applicant or his successors applying for any required permits or approvals for commercial development on the subject property.

3. The applicant shall enter into an agreement with the City by which the applicant agrees that he and his successors will not apply for any required permits or approvals for commercial development on the subject property until all right of way required for the installation of a traffic signal at the intersection of 27th Street and Reed Market Road has been obtained by the City.

Section 2. The Bend Area General Plan is amended by changing the designation of the property described in "Exhibit A" from Urban Low Density Residential (RL) to Convenience Commercial (CC). Development of this property, including but not limited to rezoning, site plan approval and the like, shall be subject to the conditions described above.

Read for the first time the 4th day of August, 1999.

Read for the second time the 18th day of August, 1999.

Placed upon its passage the 18th day of August, 1999.

YES: 5 NO: 1

Authenticated by the Mayor the 18th day of August, 1999.

Jim Young, Mayor

ATTEST:

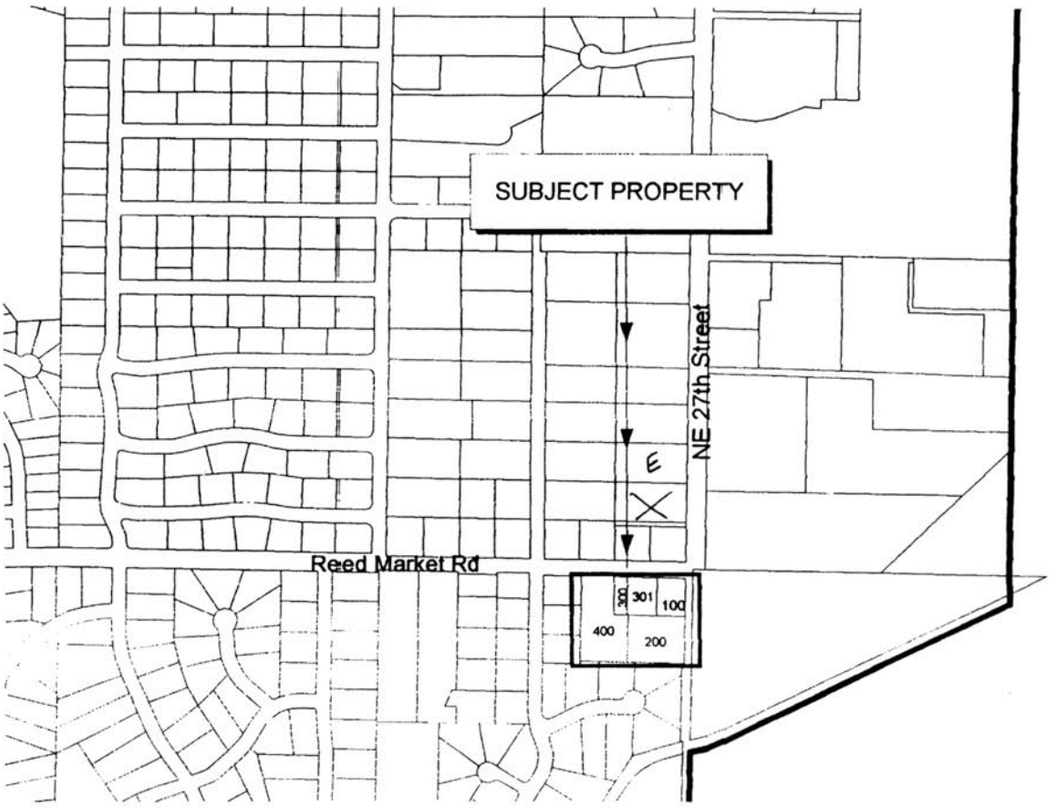
Patricia S. Stell

Patricia Stell, City Recorder

Exhibit A

Ordinance No. NS-1728

Applicant: Matt Steele
Planning File #98-309





ORDINANCE NO. NS-1729

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM SM, SURFACE MINING TO RS, URBAN STANDARD DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated June 23, 1999, file number PZ-99-149.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" from Surface Mining (SM) to Urban Standard Density Residential (RS).

Read for the first time the 4th day of August, 1999.

Read for the second time the 18th day of August, 1999.

Placed upon its passage the 18th day of August, 1999.

YES: 6 NO: 0

Authenticated by the Mayor the 18th day of August, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

EXHIBIT "A"
TO
ORDINANCE NO. NS-1729

The subject property is described as follows:

That portion of the West ½ of the Southwest ¼ of Section 36 lyng northerly of Skyliners Road, Township 17 South, Range 11 East of the Willamette Meridian, in the City of Bend, Deschutes County, Oregon.

ORDINANCE NO. NS-1730

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM IL, LIGHT INDUSTRIAL TO ME, MIXED EMPLOYMENT.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officers findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated June 9, 1999, file number PZ-99-176.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" from Light Industrial (IL) to Mixed Employment (ME).

Read for the first time the 4th day of August,1999.

Read for the second time the 18th day of August, 1999.

Placed upon its passage the 18th day of August, 1999.

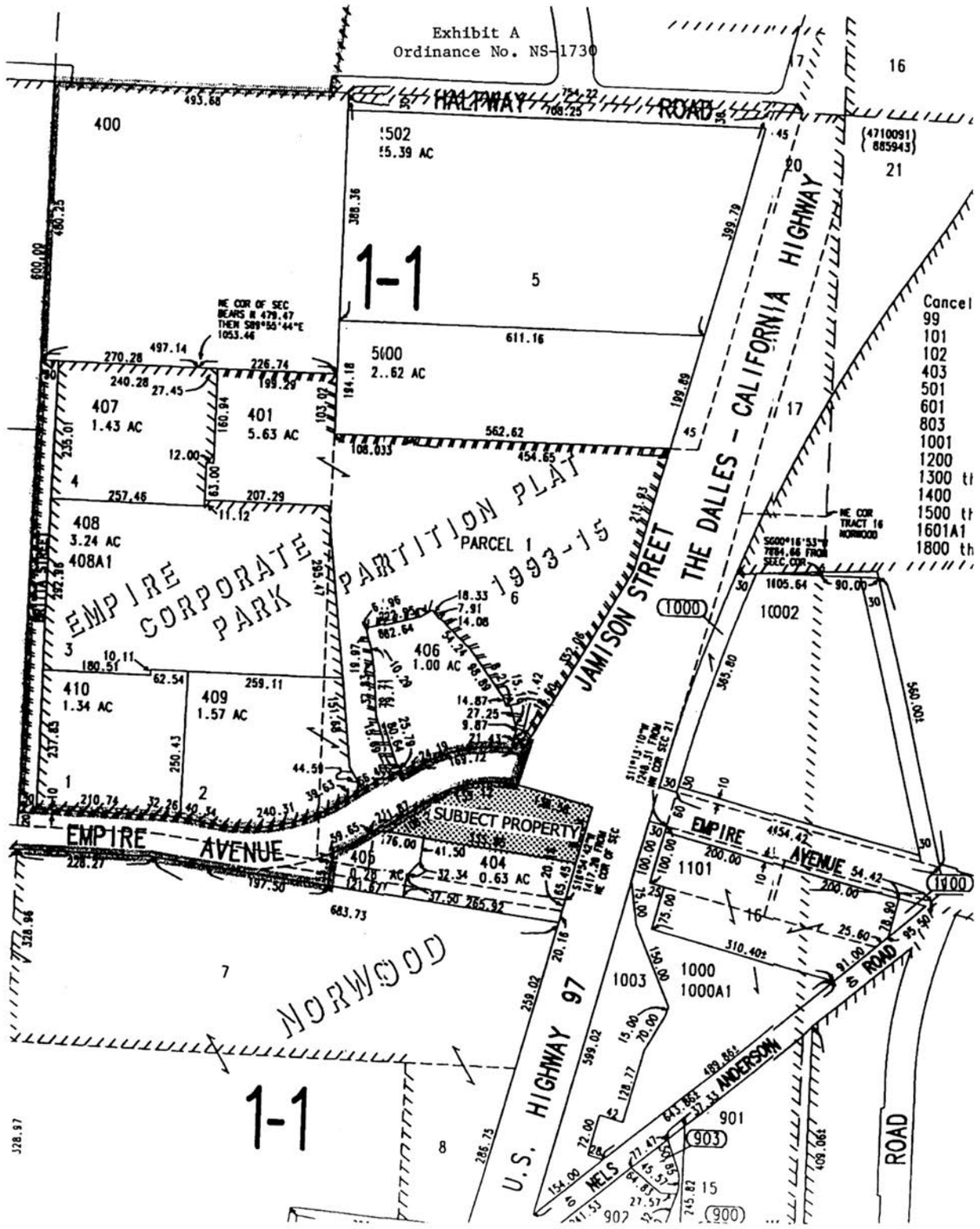
YES: 6 NO: 0

Authenticated by the Mayor the 18th day of August, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder


Exhibit A
Ordinance No. NS-1730
HALFWAY ROAD
400
1502
5.39 AC
1-1
5
611.16
5600
2..62 AC
407
1.43 AC
401
5.63 AC
562.62
4
408
3.24 AC
408A1
EMPIRE CORPORATE PARK
PARTITION PLAT 1993-15
PARCEL 1
6
406
1.00 AC
3
410
1.34 AC
409
1.57 AC
1
2
SUBJECT PROPERTY
EMPIRE AVENUE
405
404
0.63 AC
7
NORWOOD
1-1
8
JAMISON STREET
THE DALLES - CALIFORNIA HIGHWAY
U.S. HIGHWAY 97
16
17
20
21
1002
1101
1100
1003
1000
1000A1
901
903
900
15
902
NELS ANDERSON ROAD
Cancel
99
101
102
403
501
601
803
1001
1200
1300 th
1400
1500 th
1601A1
1800 th

ORDINANCE NO. NS-1731

AN ORDINANCE AMENDING THE BEND AREA GENERAL PLAN MAP, BY CHANGING THE DESIGNATION OF A LOT FROM RESIDENTIAL – MEDIUM DENSITY TO RESIDENTIAL - HIGH DENSITY.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated July 7, 1999; City file number PZ-99-164.

Section 2. The Bend Area General Plan Map is amended by changing the designation of the property described in "Exhibit A" and shown in "Exhibit B" from Residential - Medium Density to Residential - High Density.

Read for the first time the 18th day of August, 1999.

Read for the second time the 1st day of September, 1999.

Placed upon its passage the 1st day of September, 1999.

YES: 6 NO: 0

Authenticated by the Mayor the 1st day of September, 1999.

Jim Young

Jim Young, Mayor

ATTEST:

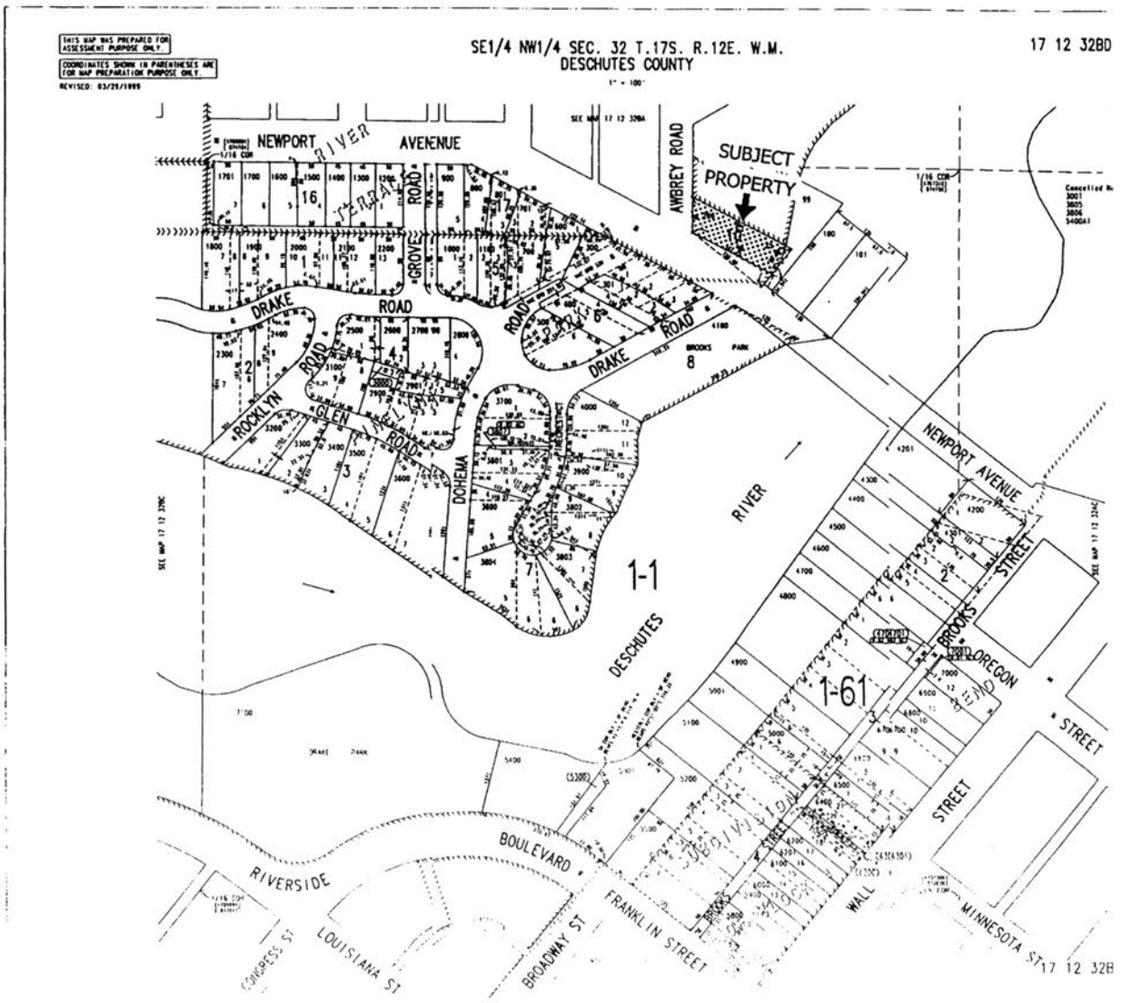
Patri S. Stell

Patricia Stell, City Recorder

Exhibit A
Ordinance No. NS-1731

LOT 25, BLOCK 10, RIVER TERRACE

EXHIBIT "B " TO ORDINANCE NO. NS- 1731



ORDINANCE NO. NS-1732

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A LOT FROM RM, URBAN MEIDUM DENSITY RESIDENTIAL TO RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated July 7, 1999; City file number PZ-99-164.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" and shown in "Exhibit B" from Urban Medium Density Residential (RM) to Urban High Density Residential (RH).

Read for the first time the 18th day of August, 1999.

Read for the second time the 1st day of September, 1999.

Placed upon its passage the 1st day of September, 1999.

YES: 6 NO: 0

Authenticated by the Mayor the 1st day of September, 1999.

Jim Young, Mayor

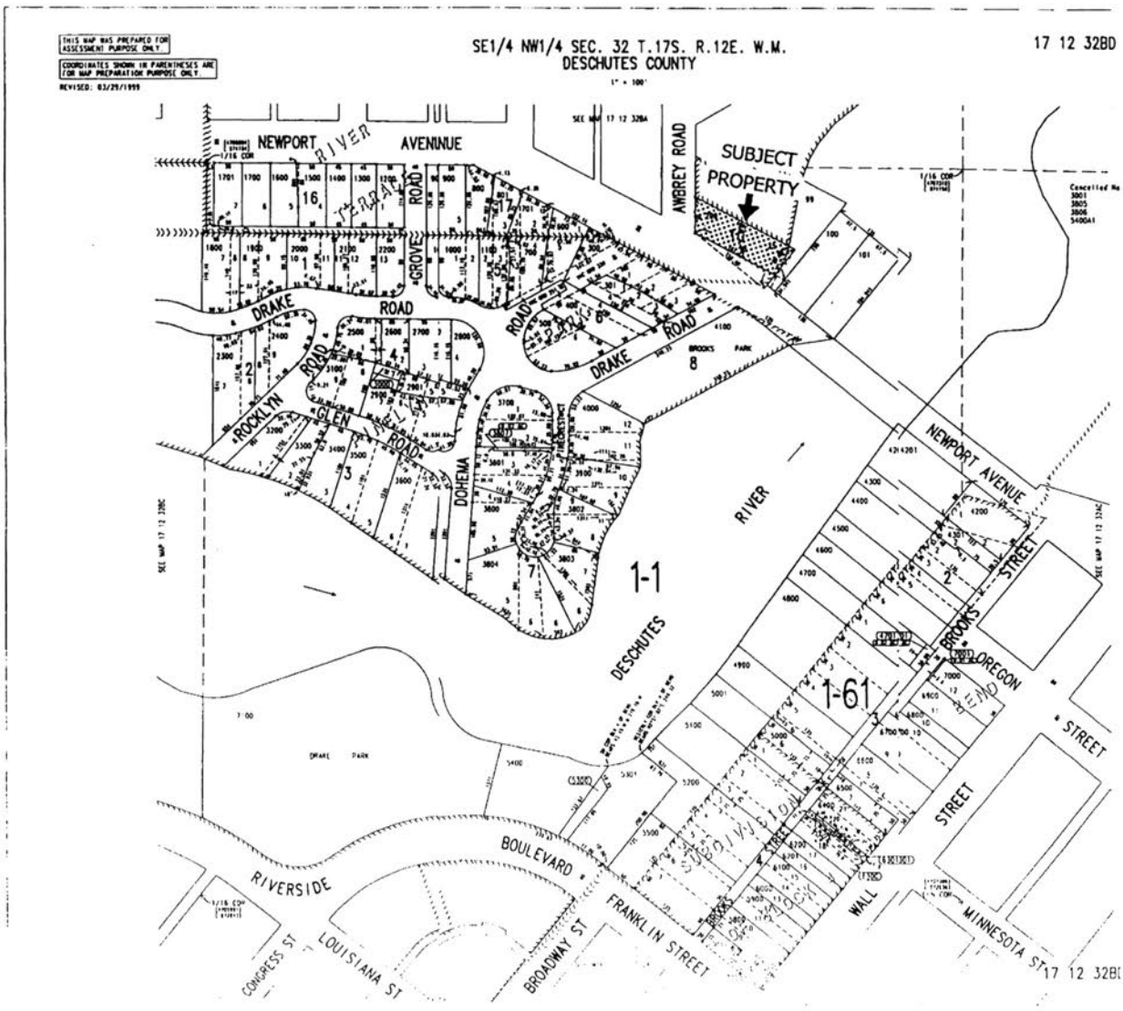
ATTEST:

Patricia Stell, City Recorder

Exhibit A
Ordinance No. NS-1732

LOT 25, BLOCK 10, RIVER TERRACE

EXHIBIT "B " TO ORDINANCE NO. NS-1732



This side not intended for recording

2001-10255-1

ORDINANCE NO. NS-1733

AN ORDINANCE VACATING PORTIONS OF SILVERLAKE BLVD.AND SOUTHWEST HILL STREET THAT LIE WITHIN SE 1/4 OFSECTION 5, TOWNSHIP 18 SOUTH, RANGE 12 EAST, W.M., IN THE CITY OF BEND, DESCHUTES COUNTY, OREGON.

A petition having been presented to the Bend City Council on June 16, 1999 requesting that the following described area be vacated:

SEE EXHIBIT "A"

and stating the purpose for which the described property is proposed to be used and the reason for such vacation; and said petition being duly acknowledged;

The City of Bend having caused a notice of public hearing for vacation of public property describing the above street right of ways to be published in the Bulletin, as provided by ORS 271.110, once each week for two (2) consecutive weeks;

Within five days after the first day of publication of said notice, the City having caused a notice of street vacation to be posted at or near each end of the proposed vacation and in at least two conspicuous places in the proposed vacation area; the first publication and posting of said notice having occurred not less than 14 days prior to the hearing for said proposed vacation;

The City Council of the City of Bend having fixed the 1st day of September, 1999, at 7:00 p.m. local time in the City Council Chambers at 710 NW Wall Street, City of Bend, Oregon, as the time and place for the hearing upon said proceedings and at that time having heard all objections to the proposed vacation; and;

The City Council having determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated:

NOW, THEREFORE, THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

That the above described portion of street right of ways located in Bend, Deschutes County, Oregon, be vacated. Reserving to the City of Bend an easement for the existing use, or future installation, construction, maintenance, continuation, reconstruction, repair, renewal, replacement, rebuilding and/or enlarging of any sewer, water main, gas main, conduit of any kind, wire, pole, thing or device to be used for any public purpose, and further providing that nothing contained herein shall cause or require the removal or abandonment of any wire, pole, conduit of any kind or any other facility, support or appurtenance used or intended to be used for any public utility service, and the right hereby is reserved to the owners thereof, and their successors, to maintain, continue, repair, reconstruct, renew, replace, rebuild and enlarge any and all such facilities.

This vacation is hereby made a matter of record.

The City Recorder shall forthwith cause a certified copy of this ordinance to be filed and recorded in the Office of the County Clerk of Deschutes County, Oregon.

Read for the first time the 1st day of September, 1999.

Read for the second time the 6th day of October, 1999.

Placed upon its passage the 6th day of October, 1999.

Yes: 7 No: 0

Authenticated by the Mayor the 6th day of October, 1999.

After recording, please return to:
Deputy Recorder
City of Bend
710 NW Wall
Bend OR 97701

VOL: 2001 PAGE: 10255
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2001-10255 * Vol-Page Printed: 03/06/2001 14:25:47

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Mar. 6, 2001; 2:25 p.m.

RECEIPT NO: 32753

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $56.00

NUMBER OF PAGES: 6

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2001-10255-2

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

EXHIBIT A

JOB # 9711.2 - SALTZ LAKE
DATE 4/21/98
BY M.H.
CHKD.

ROAD VACATION

PARCEL ONE

A PARCEL OF LAND SITUATED IN THE CITY OF BEND, COUNTY OF DESCHUTES, STATE OF OREGON BEING A PORTION OF LAND SHOWN ON A MAP TITLED "PLAT OF SECOND ADDITION TO BEND PARK" WHICH IS FILED AS C.S. NUMBER 05642 IN THE OFFICE OF THE COUNTY SURVEYOR OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF BLOCK 135, SAID POINT BEING THE BEGINNING OF A CURVE, TANGENT TO SAID EASTERLY LINE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 180.00 FEET; THENCE NORTH, NORTHEASTERLY AND EASTERLY ALONG SAID CURVE THROUGH A CENTERAL ANGLE OF 89°56'28" AN ARC DISTANCE OF 282.56 FEET TO A TANGENT LINE 60 FEET NORTHERLY OF AND PARALLEL TO THE NORTHERLY LINE OF BLOCK 134; THENCE SOUTH 89°58'14" WEST ALONG SAID PARALLEL LINE, 179.82 FEET TO THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID BLOCK 135; THENCE SOUTH 00°01'46" WEST ALONG SAID PROLONGATION AND THE EASTERLY LINE OF SAID BLOCK 135, 179.82 FEET TO THE POINT OF BEGINNNING.

EXCEPTING THEREFROM THAT PORTION LYING NORTHERLY OF THE NORTH LINE OF SAID PLAT.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS

EXPIRES: JUNE 30, 2000

4/21/98

2001-10255-3

OR #	
DATE	
BY	
CHKD.	

PARCEL TWO

A PARCEL OF LAND SITUATED IN THE CITY OF BEND, COUNTY OF DESCHUTES, STATE OF OREGON BEING A PORTION OF LAND SHOWN ON A MAP TITLED "PLAT OF SECOND ADDITION TO BEND PARK" WHICH IS FILED AS C.S. NUMBER 05642 IN THE OFFICE OF THE COUNTY SURVEYOR OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WESTERLY TERMINUS OF THE SOUTHERLY LINE OF BLOCK 135 OF SAID PLAT; THENCE NORTH 89°58'14" WEST ALONG THE PROLONGATION OF SAID SOUTHERLY LINE OF BLOCK 135, 149.18 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SILVER LAKE BOULEVARD "80' WIDE" (FORMERLY SILVER LAKE ROAD); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF SILVER LAKE BOULEVARD THE FOLLOWING THREE (3) COURSES: (1) NORTH 22°30'36" EAST , 11.63 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 280.00 FEET; (2) THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°26'52" AN ARC LENGTH OF 109.66 FEET; (3) THENCE NORTH 44°57'43" EAST, 281.89 FEET TO THE NORTHERLY LINE OF SAID PLAT; THENCE NORTH 89°27'39" EAST ALONG SAID NORTHERLY LINE, 57.54 FEET TO THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID BLOCK 135; THENCE SOUTH 00°01'46" WEST ALONG SAID PROLONGATION, 46.25 FEET TO THE NORTHERLY CORNER OF SAID BLOCK 135; THENCE ALONG THE NORTHWESTERLY, WESTERLY AND SOUTHWESTERLY LINES OF SAID BLOCK 135 THE FOLLOWING TWO (2) COURSES: (1) SOUTH 44°57'43" WEST, 288.57 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 30.00 FEET; THENCE SOUTHWESTERLY, SOUTHERLY AND SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 134°55'57" AN ARC LENGTH OF 70.65 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

REGISTERED PROFESSIONAL LAND SURVEYOR

David R. Williams

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2065

EXPIRES: JUNE 30, 2000

9/21/98

2001-10255-4

JOB #
DATE
BY
CHKD.

PARCEL THREE

A PARCEL OF LAND SITUATED IN THE CITY OF BEND, COUNTY OF DESCHUTES, STATE OF OREGON BEING A PORTION OF LAND SHOWN ON A MAP TITLED "PLAT OF SECOND ADDITION TO BEND PARK" WHICH IS FILED AS C.S. NUMBER 05842 IN THE OFFICE OF THE COUNTY SURVEYOR OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF BLOCK 141 OF SAID PLAT; THENCE NORTH 89°58'14" WEST ALONG THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF SAID BLOCK 141, 19.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 6.00 FEET; THENCE WESTERLY, SOUTHWESTERLY AN SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 9.42 FEET; THENCE SOUTH 00°01'46" WEST AT RIGHT ANGLES TO SAID NORTHERLY LINE OF BLOCK 141, 54.41 FEET TO THE WESTERLY LINE OF SAID BLOCK 141; THENCE NORTH 22°30'36" EAST ALONG SAID WESTERLY LINE, 65.38 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS

E... RES: JUNE 30, 2000

9/21/98

2001-10255-5

JOB #
DATE
BY
CHKD. DKJ

PARCEL FOUR

A PARCEL OF LAND SITUATED IN THE CITY OF BEND, COUNTY OF DESCHUTES, STATE OF OREGON BEING A PORTION OF LAND SHOWN ON A MAP TITLED "PLAT OF SECOND ADDITION TO BEND PARK" WHICH IS FILED AS C.S. NUMBER 05642 IN THE OFFICE OF THE COUNTY SURVEYOR OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF BLOCK 141 OF SAID PLAT; THENCE NORTH 89°58'14" WEST ALONG THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF SAID BLOCK 141, 85.00 FEET; THENCE SOUTH 00°01'46" WEST AT RIGHT ANGLES TO SAID NORTH LINE OF BLOCK 141, 6.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 00°01'46" WEST ALONG LAST MENTIONED LINE, 18.64 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 120.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°28'50" AN ARC LENGTH OF 47.08 FEET TO A TANGENT LINE WHICH LIES 20 FEET EASTERLY OF AND AT RIGHT ANGLES TO THE WESTERLY RIGHT-OF-WAY LINE OF SILVER LAKE BOULEVARD "80' WIDE" (FORMERLY SILVER LAKE ROAD); THENCE SOUTH 22°30'36" WEST ALONG SAID LINE, 199.65 FEET TO THE WESTERLY PROLONGATION OF THE SOUTHERLY LINE OF SAID BLOCK 141; THENCE NORTH 89°58'14" WEST ALONG SAID PROLONGATION, 21.84 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID SILVER LAKE BOULEVARD; THENCE NORTH 22°30'36" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF SILVER LAKE BOULEVARD, 274.48 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 6.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 50°09'20" AN ARC LENGTH OF 5.25 FEET TO THE TRUE POINT OF BEGINNING.

SUBJECT TO: ALL EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

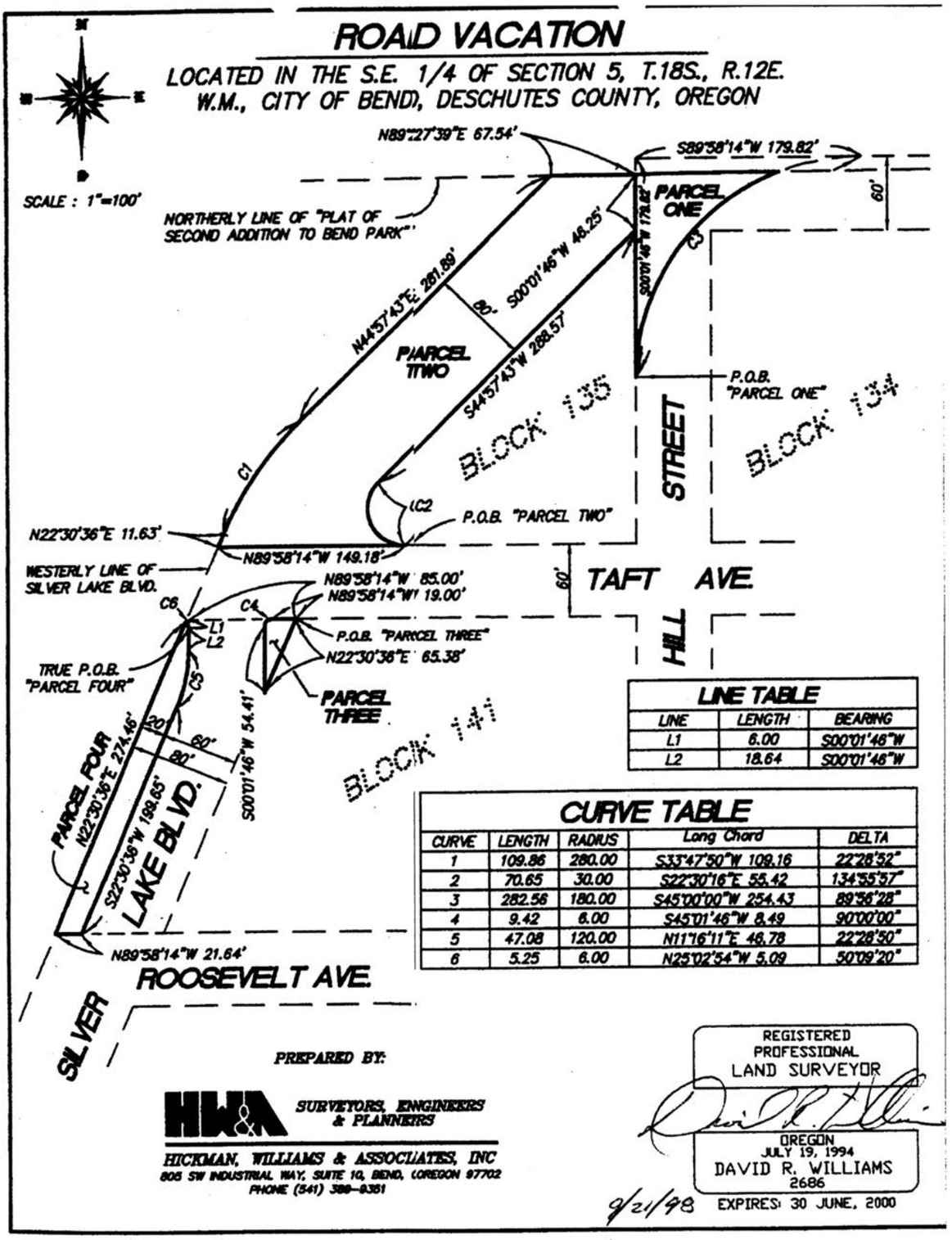
REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS

9/21/98

EXPIRES: JUNE 30, 2000

2001-10255-6



LINE TABLE		
LINE	LENGTH	BEARING
L1	6.00	S00°01'46"W
L2	18.64	S00°01'46"W

CURVE TABLE				
CURVE	LENGTH	RADIUS	Long Chord	DELTA
1	109.86	280.00	S33°47'50"W 109.16	22°28'52"
2	70.65	30.00	S22°30'16"E 55.42	134°55'37"
3	282.56	180.00	S45°00'00"W 254.43	89°56'28"
4	9.42	6.00	S45°01'46"W 8.49	90°00'00"
5	47.08	120.00	N11°16'11"E 46.78	22°28'50"
6	5.25	6.00	N25°02'54"W 5.09	50°09'20"

PREPARED BY:

HW&A SURVEYORS, ENGINEERS & PLANNERS

HICKMAN, WILLIAMS & ASSOCIATES, INC
805 SW INDUSTRIAL WAY, SUITE 10, BEND, OREGON 97702
PHONE (541) 389-9351

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 19, 1994
DAVID R. WILLIAMS
2686

9/21/98 EXPIRES: 30 JUNE, 2000

After recording, please return to:

Deputy Recorder
City of Bend
710 NW Wall
Bend, OR 97701

ORDINANCE NO. NS-1734

AN ORDINANCE AMENDING THE BEND CODE TO PROVIDE DISCRETION IN RESPONDING TO FALSE FIRE ALARMS

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Bend Code Section 5.620(1)(c) and (d) are amended to read:

(c) Third False Alarm: A citation shall be issued, and a letter warning the alarm user that if there is another false alarm the City Police [~~or Fire Department~~] will not respond to future alarms unless the alarm system is changed to prevent false alarms.

(d) Fourth False Alarm: A citation shall be issued. In addition, the alarm user will receive notice that City Police [~~or fire fighting forces~~] will not respond to any future alarms until the alarm user has demonstrated to the satisfaction of the Police Chief [~~or Fire Chief~~] that the alarm system has been changed to prevent future false alarms."

SECTION 2. Bend Code Section 5.630 is amended to read:

5.630 Silencing Audible Alarms

The audible feature of any alarm must automatically silence within five minutes of continuous sound from the alarm. If the audible portion is not silent after five minutes then City personnel responding to the alarm may take whatever [~~steps are necessary to silence the alarm~~] **measures are required by the situation**, including but not limited to dismantling or disconnecting the alarm.

Read for the first time the 6th day of October, 1999.

Read for the second time the 20th day of October, 1999.

Placed upon its passage the 20th day of October, 1999.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 20th day of October, 1999.

Jim Young
Mayor

ATTEST:
Patricia Stell, City Recorder

This side not intended for recording.

ORDINANCE NO. NS-1735

AN ORDINANCE ADOPTING THE 1998 OREGON UNIFORM FIRE CODE PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE, HAZARDOUS MATERIALS OR EXPLOSION.

THE CITY OF BEND DOES ORDAIN AS FOLOWS:

Section 1. ADOPTION OF OREGON UNIFORM FIRE CODE.

There is hereby adopted by the City of Bend for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code known as the *Oregon Uniform Fire Code*, including Appendix Chapters I-C, I-D, II-F, II-K, III-A, III-C, IV-A, V-A, VI-A, [~~VI-B~~], VI-C, [~~VI-D~~],VI-E, [~~VI-F~~] and VI-H and Appendix Standards as adopted by the State of Oregon within Article 90 of the [~~1996~~] 1998 Oregon Edition, being particularly the [~~1996~~] 1998 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by Section [~~7~~] 9 of this ordinance, three (3) copies of which have been or are now filed in the office of fire prevention for the City of Bend Fire Department.

Section 2. DEFINITIONS

2.1 Wherever the word "jurisdiction" is used in the *Oregon Uniform Fire Code,* it is City of Bend, Oregon.

2.2 Where the party responsible for enforcement of the *Oregon Uniform Fire Code* is given the title of "fire marshal", add the following definition: FIRE MARSHAL is in charge of the division of fire prevention.

Section 3. ESTABLISHMENTS OF LIMITS OF DISTRICTS WHICH STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS IS PROHIBITED.

The limits referred to in Sections 7902.2.2.1 and 7904.2.5.4.2 of the *Oregon Uniform Fire Code* in which the storage of flammable or combustible liquids is restricted are hereby established as follows: Within the corporate limits of the City of Bend. Exception #1 - Light Industrial and General Industrial Zones in approved tanks that are not in heavily populated or congested areas. Exception #2 - Combustible liquids in approved tanks not greater than 550 gallons solely used for heating. Exception #3 - Flammable and Combustible liquids [~~in approved tanks not greater than 550 gallons~~] solely used for emergency equipment not exceeding the amounts prescribed in *Oregon Uniform Fire Code* Table 7902.5-A. Exception #4 - Flammable and Combustible liquids in approved [~~protected~~] tanks not exceeding 1,000 gallons in [~~other commercial~~] business areas not heavily populated or congested.

Section 4. ESTABLISHMENTS OF LIMITS IN WHICH STORAGE OF LIQUEFIED PETROLEUM GASES IS PROHIBITED.

The limits referred to in Section 8204.2 of the *Oregon Uniform Fire Code*, in which storage of liquefied petroleum gas is restricted, are hereby established as follows: Within the corporate limits of the City of Bend. Exception #1 - General Industrial Zones not heavily populated or congested.

Section 5. ESTABLISHMENTS OF LIMITS OF DISTRICTS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS IS [~~TO BE~~] PROHIBITED.

[~~The limits referred to in Section 7701.7.2 of the *Oregon Uniform Fire Code*, in which storage of explosive or blasting agents is prohibited, are hereby established as follows: The~~] Storage of Class "A" explosives and blasting agents as defined in

reference Table A-VI-F-2, Division 1.1 and 1.2 is prohibited within the corporate limits of the City of Bend. Exception #1 – [~~Approved~~] Limited amounts of Class "B" and Class "C" explosives and blasting agents as defined in reference Table A-VI-F-2, Division 1.2, 1.3, 1.4 and 1.5 may be allowed in areas that are not heavily populated or congested may be approved by the Fire Chief when stored and used within the scope of nationally recognized standards.

Section 6. ESTABLISHMENTS OF LIMITS OF DISTRICTS IN WHICH THE STORAGE OF COMPRESSED NATURAL GAS IS TO PROHIBITED.

The limits referred to in Section 5204.5.2 of the *Oregon Uniform Fire Code*, in which the storage of compressed natural gas storage is prohibited, are hereby established as follows: Within the corporate limits of the City of Bend. Exception #1 - General Industrial Zones not heavily populated or congested.

Section 7. ESTABLISHMENTS OF LIMITS OF DISTRICTS IN WHICH THE STORAGE OF STATIONARY TANKS OF FLAMMABLE CRYOGEN FLUIDS ARE TO BE PROHIBITED.

The limits referred to in Section 3-1.5 of the *Oregon Uniform Fire Code* Standard 80-3, in which the storage of flammable cryogen fluids in stationary containers is prohibited are hereby established as follows: Within the corporate limits of the City of Bend. Exception #1 - General Industrial Zones not heavily populated or congested.

Section 8. ESTABLISHMENTS OF LIMITS OF DISTRICTS IN WHICH THE STORAGE OF HAZARDOUS MATERIALS IS TO BE PROHIBITED OR LIMITED.

The limits referred to in Section 8001.1.1 of the *Oregon Uniform Fire Code*, in which the storage of hazardous materials is prohibited or limited are hereby established as follows: Within the corporate limits of the City of Bend. Exception #1 - Light Industrial and General Industrial Zones not heavily populated or congested. Exception #2 - Limited amounts of hazardous materials may be approved by the Fire Chief within Commercial areas not heavily populated or congested when stored and used within the scope of nationally recognized standards.

Section 9. AMENDMENTS TO THE OREGON UNIFORM FIRE CODE.

The *Oregon Uniform Fire Code* is amended and changed in the following respects:

1. Amend the Code throughout, change the title "bureau" to "division".

2. Amend the Code throughout, change the title "chief of the division of fire prevention" to "fire marshal in charge of the division of fire prevention".

Section 10. APPEALS.

Whenever the chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the regional appeal advisory board established under ORS 476.113 to 476.115 in addition to following the procedures as described in ORS 479.180.

Section 11. NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

The City of Bend Fire Chief, the fire marshal and a representative from the [~~State Fire Marshal's~~] Office of State Fire Marshal shall act as a committee to determine

and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in the *Oregon Uniform Fire Code*. The fire marshal in charge of the division of fire prevention shall post such a list in a conspicuous place at the division of fire prevention and distribute copies thereof to interested persons.

Section 12. PENALTIES.

12.1 Any person who violates any of the provisions of the *Oregon Uniform Fire Code* as adopted and amended herein or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such order as affirmed and modified by the regional appeals advisory board or by a court of competent jurisdiction, within the required time, shall severally for each and every violation and noncompliance, respectively, be guilty of a Class "A" infraction, punishable by a fine of not more than $500.00. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

12.2 The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 13. REPEAL OF CONFLICTING ORDINANCES.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the *Oregon Uniform Fire Code* as adopted and amended herein are hereby repealed.

Section 14. VALIDITY.

The City of Bend hereby declares that should any section, paragraph, sentence or word of this ordinance or of the *Oregon Uniform Fire Code* as adopted and amended herein be declared for any reason to be invalid, it is the intent of the City councilors that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

Read for the first time the 6th day of October, 1999.

Read for the second time the 20th day of October, 1999.

Placed upon its passage the 20th day of October, 1999.

Jim Young
Mayor

ATTEST:

Patti J. Stell
Patricia Stell, Recorder for the City of Bend

ORDINANCE NO. NS-1736

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIALTO RH, URBAN HIGH DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated August 26, 1999, file number PZ-99-231.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" from Urban Standard Density Residential (RS) to Urban High Density Residential (RH).

Read for the first time the 17th day of November, 1999.

Read for the second time the 1st day of December, 1999.

Placed upon its passage the 1st day of December, 1999.

YES: 7 NO: 0

Authenticated by the Mayor the 1st day of December, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

The East 59 feet of Tract Twenty-seven (27) and that portion of Tract Twenty-eight (28) of VIRGINIA PARK, described as follows:

Beginning at a point on the Northeast corner of Tract 28 of said VIRGINIA PARK; thence 59 feet West along the North line of said tract; thence approximately 187.55 feet South to the South line of said tract; thence East along the South line of said tract to the Southeast corner thereof; thence North 185 feet, more or less, along the East line of said tract to the Point of Beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Bend, recorded September 10, 1998, in Book 511, Page 1047, Deschutes County Records.

END

ORDINANCE NO. NS-1737

AN ORDINANCE EXTENDING LIMITATIONS ON SIGNS ORIENTED TOWARDS THE BEND PARKWAY; AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.005 of the City of Bend Sign Code shall be extended for an additional six months from the effective date of this ordinance. Section 8.005 provides:

> **8.005 Limitation. No sign permits for billboards or outdoor advertising signs or ground mounted signs which exceed 10-feet in vertical height and 8-feet in horizontal width shall be issued pursuant to the City of Bend Sign Code, nor shall any such signs be installed, which are oriented toward the Bend Parkway, within a distance of two-hundred feet from each side of the Bend Parkway right-of-way. This limitation shall be for a period of six months from the effective date of this ordinance, or until a new sign code regulating these signs is adopted, whichever happens first. A sign shall be considered as oriented toward the Bend Parkway if it would have not have been installed but for the potential of display to, and viewing from, traffic on the Bend Parkway.**

Section 2. The existing regulations of the City of Bend Sign Code were developed prior to the construction of the Bend Parkway; and these regulations do not adequately deal with the new sign regulation situation presented by the Bend Parkway. Because signs oriented toward the Bend Parkway have been installed along portions of the Parkway that have been opened to public travel, it is necessary and desirable for the protection of the public health, safety and welfare to not permit any signs described in this amendment until there is an opportunity to review the kind of sign regulation that will be required by this new situation, and develop whatever regulations are necessary to provide whatever sign regulation is needed. Therefore an emergency is declared to exist, and this ordinance shall take effect immediately upon its passage.

Read for the first time the 17th day of November, 1999.

Read for the second time the 1st day of December, 1999.

Placed upon its passage the 1st day of December, 1999.

YES: 7 NO: 0

Authenticated by the Mayor the 1st day of December, 1999.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

2000-4587-1

ORDINANCE NO. NS-1738

AN ORDINANCE CHANGING THE NAME OF NW MINOR AVENUE AND NE XERXES AVENUE ON THE WEST SIDE OF NORTH DIVISION STREET TO NW LAKESIDE PLACE WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street names of NW Minor Avenue and NE Xerxes Avenue on the west side of North Division Street be changed to NW Lakeside Place.

Section 2. The effective date for the renaming of this street shall be 30 days following the adoption of this ordinance.

Read for the first time the 15th day of December, 1999.

Read for the second time the 5th day of January, 2000.

Placed upon its passage the 19th day of January, 2000.

YES: NO:

Authenticated by the Mayor the 19th day of January, 2000.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

Return to:
Recorder
City of Bend
710 nw Wall
Bend OR 97709

VOL: 2000 PAGE: 4587
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2000-4587 * Vol-Page Printed: 02/04/2000 15:36:36

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Feb. 4, 2000; 3:36 p.m.

RECEIPT NO: 16824

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

ORDINANCE NO. NS-1739

AN ORDINANCE AMENDING SECTION 3.112 OF THE BEND CODE

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

SECTION 1. Bend Code Section 3.112 is amended to read:

3.112 Fees and Payment.

(1) Utilities shall pay the following percentage of their gross operating revenue to the City of Bend as a license fee:

~~(1)~~ (a) Telecommunications utilities: 7.0%.
~~(2)~~ (b) Gas utilities: 4.5%.
~~(3)~~ (c) All other utilities: 5.0%.

(2) The City of Bend may, in its discretion, provide by written agreement that a utility pay a different amount or kind of fee than stated in Subsection (1) of this section. Unless the City specifically provides by written agreement that a utility shall pay a different fee than set forth in Subsection (1) of this section, a utility shall pay the fee set forth in Subsection (1) of this section. Where a written agreement between the City and a utility requires that the utility pay the license fee required by City ordinance, the utility shall pay the fee set forth in Subsection (1) of this section.

The licensee shall pay the license fee to the Treasurer of the City within 35 days of the end of the month of operation for which the license fee is due, unless the City, by written agreement with the licensee, specifically provides otherwise.

Read for the first time the 5th day of January, 2000.

Read for the second time the 19th day of January, 2000.

Placed upon its passage the 19th day of January, 2000.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 19th day of January, 2000.

Jim Young

Jim Young, Mayor

Attest:

Patricia S. Stell

Patricia Stell, City of Bend Recorder

ORDINANCE NO. NS-1740

AN ORDINANCE TRANSFERING THE AUTHORITY TO EXERCISE THE POWERS OF THE CITY'S URBAN RENEWAL AGENCY FROM THE CITY COUNCIL TO THE BEND DEVELOPMENT BOARD

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS OF FACT.

The City of Bend, by Ordinance No. NS-1499, adopted an urban renewal plan, known as the Central Bend Development Program Area Plan on September 6, 1989, making a determination of blight and providing an outline for accomplishing the urban renewal projects the urban renewal plan proposed; and

By Ordinance No. NS-1554, adopted January 15, 1992, the City of Bend transferred the authority to exercise the powers of the City's urban renewal agency for the Central Bend Development Program Area from the Bend Development Board to the City Commission (now known as the City Council); and

ORS 457.055 provides that, any time after adoption of an urban renewal plan such as Ordinance No. NS-1499, the governing body of a municipality may, by ordinance, transfer the authority to exercise the powers of the urban renewal agency from the governing body to any other body authorized to exercise those powers under ORS 457.045.

Section 2. TRANSFER OF POWERS. Pursuant to ORS 457.045(2), the City of Bend transfers the urban renewal agency powers from the City Council, which has been exercising those powers following the adoption of Ordinance No. NS-1554, to an appointed board which shall be known as the Bend Development Board, as provided by this ordinance.

Section 3. AMENDMENT OF BEND CODE. Sections 1.511 to 1.519 of the Bend Code are amended to read:

1.511 URBAN RENEWAL AGENCY. The City Council hereby declares, pursuant to ORS 457.045(2), that all of the rights, powers, duties, privileges, obligations, and immunities granted to and vested in the Urban Renewal Agency of the City of Bend, Oregon by the laws of the State of Oregon and the ordinances of the Council creating the agency and adopting urban renewal plans, shall be transferred to, exercised by and vested in the ~~City Council of the City of Bend. The Urban Renewal Agency of the City of Bend, Oregon, shall be known as the~~ Bend Development Board. ~~Any act of the City Council, acting as the urban renewal agency shall be, and shall be considered, the act of the urban renewal agency only and not of the City Council.~~

1.513 RULES OF CONDUCT. The rules of conduct and procedure applicable to the City Council ~~when acting as a City Council~~ shall apply with like force to the ~~Council when acting as the~~ Bend Development Board~~, except as to those matters covered by Bend Code 1.511 to 1.519~~.

~~1.515 OATHS AND AFFIRMATIONS. No oath or affirmation, other than the oath or affirmation of office required to assume office as a City Councilor, shall be required prior to service by a City Councilor as a member of the Bend Development Board.~~

1.517 MEMBERSHIP AND TERM OF OFFICE. ~~The term of office of each member of the Bend Development Board shall be the same as the term of office that each member holds as a member of the Bend City Council.~~ The Bend Development Board shall be composed of seven members who reside within the City of Bend. All members shall be appointed by the City Council by resolution. The terms of the members shall be structured so that the terms of not more than four members of the Board shall expire in any given year.

1.519 OFFICERS AND ADMINISTRATION. The administrative responsibilities of the Bend Development Board shall be discharged by City of Bend personnel under the supervision of the City Manager. The Bend Development Board may select the following officers of the Bend Development Board, by a majority vote of the Board:

(1) CHAIRPERSON. The Chairperson must be a member of the Board and shall preside at all the meetings of the Board. Except as otherwise provided by the Board, the Chairperson shall have the authority to sign all contracts, deeds and other instruments authorized by a majority vote of the Board.

(2) VICE-CHAIRPERSON. The Vice-Chairperson must be a member of the Board and shall perform the duties of the chairperson in the absence or incapacity of the Chairperson; and in the case of resignation or death of the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson until the Board has designated a new Chairperson.

~~(3) SECRETARY. The Secretary may be a member of the Board or some other person designated by the Board. If the Secretary is not a member of the City Council, that person may not vote on Board matters. The Secretary shall perform the duties of the Chairperson in the absence or incapacity of both the Chairperson and the Vice-Chairperson.~~

Section 4. REPEALER. Section 2 of Ordinance No. NS-1554, which transferred urban renewal agency powers to the City Commission (now known as the City Council), is hereby repealed.

Read for the first time the 19th day of January, 2000.

Read for the second time the 2nd day of February, 2000.

Placed upon its passage the 2nd day of February, 2000.

YES: 7 NO: 0 ABSTAIN: 0

Authenticated by the Mayor the 2nd day of February, 2000.

Jim Young, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1741

AN ORDINANCE AMENDING BEND CODE RELATING TO CITY COUNCIL MEETINGS THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

CITY COUNCIL PROCEDURES

1.100 Meetings.

(1) Unless provided otherwise by ordinance, the City Council shall hold regular meetings on the first and third Wednesdays of each month at ~~7:00 p.m~~ **such time as the Council shall determine**. If the regular meeting falls on a holiday, the meeting shall be held on the day following or canceled.

(2) Regular Council meetings shall be held in the Council Chambers of City Hall **or such other place in the City as the Council shall determine**.

(3) Adjourned meetings may be held at such times as the Council may determine.

(4) Special meetings of the Council may be called and held as provided by the City charter and state law.

[Section 1.100 (1), (2), (3) and (4) amended by ORD. No. NS-1643 passed November 1, 1995]

1.102 The Presiding Officer - Election and Duties. At the first meeting in January of ~~each year,~~ **odd numbered years,** the Councilors shall elect from their membership a mayor, who shall become the presiding officer immediately following the election. The presiding officer shall preserve strict order and decorum at all meetings, state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions or order, subject, however, to an appeal to the Council. A majority vote of the Council shall decide the appeal. The mayor shall vote last on all questions and shall sign all ordinances and resolutions adopted by the Council during his or her presence. If the mayor is absent, the presiding officer shall sign ordinances or resolutions as then adopted. Special committees shall be appointed by the presiding officer, unless otherwise directed by the Council.

1.104 Chairperson Pro Tem. At the time of the election of the mayor, the Councilors shall elect one of their members to the position of chairperson pro tem. The chairperson pro tem shall be presiding officer during the absence of the mayor.

1.106 Order of Business. Council meetings shall be open to the public, except as provided by the charter and state law. Promptly at the hour set by law on the day of each regular meeting, the members of the Council, the City Recorder, and the City Manager shall take their regular stations in the Council room, and the business of the Council shall be taken up for consideration and disposition, after roll call, in the order that such business is listed on the Council agenda. The City Manager shall prepare the Council agenda and make it available to the public and Council prior to the Council meeting.

[Section 1.106 amended by ORD. No. NS-1454 passed January 21, 1987]

1.108 Call to Order - Presiding Officer. The mayor, or in his absence, the chairperson pro tem, shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the Council to order. In the absence of the mayor or chairperson pro tem, the City Recorder, or assistant, shall call the Council to order, and a temporary chairperson shall be elected by the members of the Council present. Upon the arrival of the mayor or chairperson pro tem, the temporary chairperson shall immediately relinquish the chair upon the conclusion of the business immediately before the Council.

1.110 Roll Call. Before proceeding with the business of the Council, the **City Manager or designee** ~~City Recorder or assistant~~ shall call the roll of the members, and the names of those present shall be entered in the minutes.

1.112 Quorum. A majority of the Council shall constitute a quorum to do business, but a lesser number may appear and adjourn from time to time.

1.114 Reading of Minutes. Unless a reading of the minutes of a Council meeting is requested by a Councilor, the minutes may be approved without reading if the Recorder has previously furnished each member with a copy.

1.116 Rules of Debate.

(1) The mayor or any other Councilor shall not be deprived of any of the rights and privileges of a Councilor by reason of acting as the presiding officer.

(2) A member desiring to speak shall address the chair, and upon recognition by the presiding officer, shall speak only to the question under debate, avoiding all personalities and indecorous language.

(3) A member, once recognized, shall not be interrupted when speaking unless it be to call to order, or as herein otherwise provided. If a member, while speaking, is called to order, he or she shall cease speaking until the question of order is determined, and, if in order, shall be permitted to proceed.

(4) The Councilor moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(5) A motion to reconsider any action taken by the Council may be made only on the day the action was taken. It may be made either immediately during the same session or at a recessed or adjourned session. The motion must be made by one of the prevailing side, but may be seconded by any member. The motion may be made at any time and shall have precedence over all other motions. The motion shall be debatable. Nothing in this section shall be construed to prevent any member of the Council from making or remaking the same or any other motion at a subsequent meeting of the Council.

(6) A Councilor may request, through the presiding officer, the privilege of having an abstract of his or her statement on any subject under consideration by the council entered in the minutes. If the Council consents, the statement shall be entered in the minutes.

(7) The City Recorder may be directed by the presiding officer, with consent of the Council, to enter in the minutes a synopsis of the discussion on any question coming regularly before the Council.

(8) A member shall have the right to have the reasons for his or her dissent from, or protest against, any action of the Council entered into the minutes.

1.118 Addressing the Council. A person desiring to address the Council shall first secure the permission of the presiding officer so to do; provided, however, that under the following headings of business, unless the presiding officer rules otherwise, any qualified person may address the Council without securing such prior permission:

(1) Written communications. Interested parties or their authorized representatives may address the Council by written communications in regard to matters then under discussion.

(2) Oral communications. Taxpayers or residents of the City, or their authorized representatives, may address the Council by oral communications on any matter **on the agenda** concerning the City's business. ~~or any matter over which the Council has~~

~~control.~~ Preference shall be given to those persons who notify the City Recorder in advance of their desire to speak in order that the same may appear on the agenda of the Council.

(3) Reading of protests, etc. Interested persons or their authorized representatives may address the Council by reading of protests, petitions, or communications relating to zoning, sewer and street proceedings, hearings on protests, appeals and petitions, or similar matters, in regard to matters then under consideration.

(4) Visitor's Section: All Council agenda will have a section reserved for visitor's comments. This section is intended to provide an opportunity to address the Council on items not otherwise listed on the agenda. The Presiding Officer shall determine the order and manner in which comment shall be taken on individual items listed on the agenda.

1.120 Addressing the Council After Motion Made. After a motion is made by the Council, no person shall address the Council without first securing the permission of the Council to do so.

1.121 Manner of Addressing Council. Each person addressing the Council shall first write his or her name and address on a document provided for that purpose, shall then state his or her name in an audible tone of voice, and shall also state whether he or she is a resident of the City of Bend for the record. All remarks shall be addressed to the Council as a body and not to any particular member. No person, other than the Councilors and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the presiding officer. No question shall be asked a Councilor except through the presiding officer, who may give permission in an orderly fashion.

[Section 1.122 amended by Ord. NS-1613, passed May 4, 1994]

1.124 Decorum.

(1) When the Council is in session, the members must preserve order and decorum, and no member shall delay or interrupt the proceedings or the peace of the Council, disturb any member while speaking, or refuse to obey the orders of the Council or its presiding officer, except as provided by Sections 1.100 to 1.138.

(2) Any member of the audience who makes personal, impertinent, or slanderous remarks, or who becomes boisterous while addressing the Council shall be barred, by the presiding officer, from further audience before the Council, at that particular meeting, unless permission to continue is granted by a majority vote of the Council.

1.126 Enforcement of Decorum. The chief of police, or designated member or members of the police department shall be sergeant-at-arms of the Council meetings. The sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meetings. Under instructions of the presiding officer, the sergeant-at-arms shall place any person who violates the order and decorum of the meeting under arrest, and cause him to be prosecuted under the provisions of the code or ordinances of the City of Bend and a violation of this section shall be deemed a disorderly conduct in a public place, and shall be prosecuted as such on a complaint to be signed by the presiding officer.

1.128 Question of Procedure. Questions of procedure not specifically provided for in this code or in the charter shall be governed by Robert's Rules of Order, Revised Edition.

~~**1.130 Silence Constitutes Affirmative Vote**. Unless a member of the Council states that he or she is not voting, silence shall be recorded as an affirmative vote~~

1.132 Persons Authorized to Be Within The Council Area. No person, except authorized City officials, their representatives and news reporters, shall be permitted within the Council area of the Council room, except by express consent of the Council.

1.134 Ordinances, Resolutions, Motions, and Contracts.

(1) Ordinances shall be prepared by the City Attorney. No ordinance shall be prepared for presentation to the Council unless ordered by a majority vote of the Council, or requested in writing by the City Manager or prepared by the City Attorney, with the approval of the City Manager or on his or her own initiative.

(2) All ordinances, resolutions, and contract documents involving substantive matters of administration shall be approved as to form and legality by the City Attorney or authorized representative, and for administration by the City Manager or authorized representative, before presentation to the Council.

1.136 Reports and Resolutions to Be Filed With Recorder. Reports and resolutions shall be filed with the Recorder and entered on the minutes.

1.138 Recording of Council Meetings. Voice recordings of Council meetings shall be made when practicable. The recordings shall be retained and stored in a safe place by the City Manager until the Council directs their disposal. The recordings shall not be permitted to be taken outside the confines of city hall.

1.160 City Seal. The seal of the City consists of a representation of the sun setting behind the Three Sisters Mountains, surrounded by an outer rim containing the words, "Seal of the City of Bend, Deschutes County, Oregon," and also the figures, "1905." The seal makes an impression 1-7/8 inches in diameter.

1.170 Claims Against the City. Claims against the City shall be reviewed by the City Manager, who shall recommend to the City Council for payment those considered valid and proper. No claim shall be paid except after Council Approval.

Read for the first time the 2nd of February, 2000.

Read for the second time the 16th day of February, 2000.

Placed upon its passage the 16th day of February, 2000.

Yes: 6 No: 0 Abstain: 1

Authenticated by the Mayor the 16th day of February, 2000.

Jim Young

Jim Young, Mayor

Attest:

Patri S. Stell

Patricia Stell, City Recorder

ORDINANCE NO. NS-1742

AN ORDINANCE AMENDING BEND CODE SECTION 5.310 RELATING TO USE OF THE DESCHUTES RIVER WITHIN THE BOUNDARIES OF THE CITY OF BEND

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1: Bend Code Section 5.310 is amended to read:

DESCHUTES RIVER

5.310 Boating, ~~Fishing, Swimming~~ **Diving** and Ice Skating.

(1) No unauthorized person shall operate a motor propelled boat on the Deschutes River within the limits of the City of Bend; or operate any boat, whether propelled or not, within 100 feet of the islands located immediately below the Tumalo Bridge in the Deschutes River. This one hundred foot prohibition shall not apply to boats coming to or going from abutting properties, provided these boats do not unnecessarily disturb wildlife.

(2) No person shall ~~fish or~~ dive from any bridge across the Deschutes River nor ~~swim or wade in or~~ ice skate on the Deschutes River. ~~The City Commission may allow swimming in the Deschutes River in connection with an approved special event. The Commission may grant conditional approval of swimming in the Deschutes and require the special event sponsor to meet conditions prescribed by the Commission. Conditions that may be imposed on event sponsors include, but are not limited to, a requirement that sponsors obtain waivers of City liability from event participants, a requirement that sponsors conduct the event in a specified manner and a requirement of staffing of the event by emergency medical personnel and lifeguards. Failure to comply with Commission conditions, as determined by the Chief of Police or designee, will render the approval void. Before determining that Commission conditions are not being complied with, the Chief of Police or designee shall inform the event sponsor of the facts which indicate that the event sponsor has not complied with Commission conditions and shall give the sponsor an opportunity to remedy the situation or to explain why the sponsor has not violated the conditions. This notice provision shall not apply when immediate cancellation is necessary to protect the public safety and welfare or when the event sponsor can not be located prior to the time that swimming is to be allowed.~~

Read for the first time the 15th day of March, 2000.

Read for the second time the 5th day of April, 2000.

Placed upon its passage the 5th day of April, 2000.

Yes: 6 No: 0 Abstain:

Authenticated by the Mayor the 5th day of April, 2000.

Jim Young, Mayor

Attest:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1743

AN ORDINANCE EXTENDING LIMITATIONS ON SIGNS ORIENTED TOWARDS THE BEND PARKWAY; AND DECLARING AN EMERGENCY.

THE CITY OF BEND DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.005 of the City of Bend Sign Code shall be extended for an additional six months from the effective date of this ordinance. Section 8.005 provides:

> **8.005 Limitation. No sign permits for billboards or outdoor advertising signs or ground mounted signs which exceed 10-feet in vertical height and 8-feet in horizontal width shall be issued pursuant to the City of Bend Sign Code, nor shall any such signs be installed, which are oriented toward the Bend Parkway, within a distance of two-hundred feet from each side of the Bend Parkway right-of-way. This limitation shall be for a period of six months from the effective date of this ordinance, or until a new sign code regulating these signs is adopted, whichever happens first. A sign shall be considered as oriented toward the Bend Parkway if it would have not have been installed but for the potential of display to, and viewing from, traffic on the Bend Parkway.**

Section 2. The existing regulations of the City of Bend Sign Code were developed prior to the construction of the Bend Parkway; and these regulations do not adequately deal with the new sign regulation situation presented by the Bend Parkway. Because signs oriented toward the Bend Parkway have been installed along portions of the Parkway that have been opened to public travel, it is necessary and desirable for the protection of the public health, safety and welfare to not permit any signs described in this amendment until there is an opportunity to review the kind of sign regulation that will be required by this new situation, and develop whatever regulations are necessary to provide whatever sign regulation is needed. Therefore an emergency is declared to exist, and this ordinance shall take effect immediately upon its passage.

Read for the first time the 5th day of April, 2000.

Read for the second time the 17th day of April, 2000.

Placed upon its passage the 17th day of April, 2000.

YES: 7 NO: 0

Authenticated by the Mayor the 17th day of April, 2000.

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

ORDINANCE NO. NS-1744

AN ORDINANCE AMENDING THE CITY OF BEND ZONING ORDINANCE NO. NS-1178, BY CHANGING THE ZONE OF A PARCEL OF LAND FROM RS, URBAN STANDARD DENSITY RESIDENTIAL TO RM, URBAN MEDIUM DENSITY RESIDENTIAL.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend City Council has held a public hearing, considered the Hearings Officer's findings and record, and has found that there is a public need and benefit for the proposed change. The Bend City Council adopts the Findings and Recommendation of the Hearings Officer dated February 23, 2000, file number PZ-99-436.

Section 2. Section 7(1) of Ordinance NS-1178 and the Zoning Map of the City of Bend are amended by changing the designation of the property described in "Exhibit A" from Urban Standard Density Residential (RS) to Urban Medium Density Residential (RM).

Read for the first time the 5th day of April, 2000.

Read for the second time the 17th day of April, 2000.

Placed upon its passage the 17th day of April, 2000.

YES: 7 NO: 0

Authenticated by the Mayor the 17th day of April, 2000.

Jim Young, Mayor

ATTEST:

Patricia Stell, City of Bend Recorder

EXHIBIT "A"

That portion of Tract 30, BLAKELY HEIGHTS, Deschutes County, Oregon, described as follows:

Beginning at the Southwesterly corner of Tract 31; thence along the West line of said Tract 31 and 30, North 00° 35' 40" East, 821.10 feet to the true point of beginning of this description; thence along the West line of said Tract 30; North 00° 35' 40" East, 108.90 feet; thence South 89° 24' 20" East, 400.00 feet to the East line of said Tract 30; thence along said East line of said Tract 30, South 00° 35' 40" West, 108.90 feet; thence North 89° 24' 20" West, 400.00 feet to the true point of beginning; and ALSO the North 16.35 feet of the South 116.71 feet of Tract 30.

EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of Transportation, by instruments recorded March 6, 1996 in Book 402 Pages 140 and 146, Deschutes County Records.

VOL: 2000 PAGE: 26011
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2000-26011 * Vol-Page Printed: 06/30/2000 09:36:02

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: Jun. 30, 2000; 8:51 a.m.

RECEIPT NO: 22733

DOCUMENT TYPE: Ordinance (County or City)

FEE PAID: $31.00

NUMBER OF PAGES: 1

Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

VOL: 2000 PAGE: 26012
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES

*2000-26012 * Vol-Page Printed: 06/30/2000 09:36:05

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Mary Sue Penhollow

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

2000.26011-1

ORDINANCE NO. NS-1745

AN ORDINANCE ASSIGNING THE STREET NAME OF POE SHOLES DRIVE WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of Poe Sholes Drive be assigned.

Section 2. The effective date for the assignment of this street name shall be 30 days following the adoption of this ordinance.

Read for the first time the 3rd day of May, 2000

Read for the second time the 17th day of May, 2000

Placed upon its passage the 17th day of May, 2000

YES: 7 NO: 0

Authenticated by the Mayor the 17th day of May, 2000

Jim Young, Mayor

ATTEST:

Patricia Stell, City Recorder

Return To:
City of Bend
Development Services
P.O. Box 431
Bend, OR 97709

2000-26012-1

ORDINANCE NO. NS-1746

AN ORDINANCE ASSIGNING THE STREET NAME OF COULTER LANE WITHIN THE CITY OF BEND, OREGON.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. That the street name of Coulter Lane be assigned.

Section 2. The effective date for the assignment of this street name shall be 30 days following the adoption of this ordinance.

Read for the first time the 3rd day of May, 2000

Read for the second time the 17th day of May, 2000

Placed upon its passage the 17th day of May, 2000

YES: 7 NO: 0

Authenticated by the Mayor the 17th day of May, 2000

Jim Young

Jim Young, Mayor

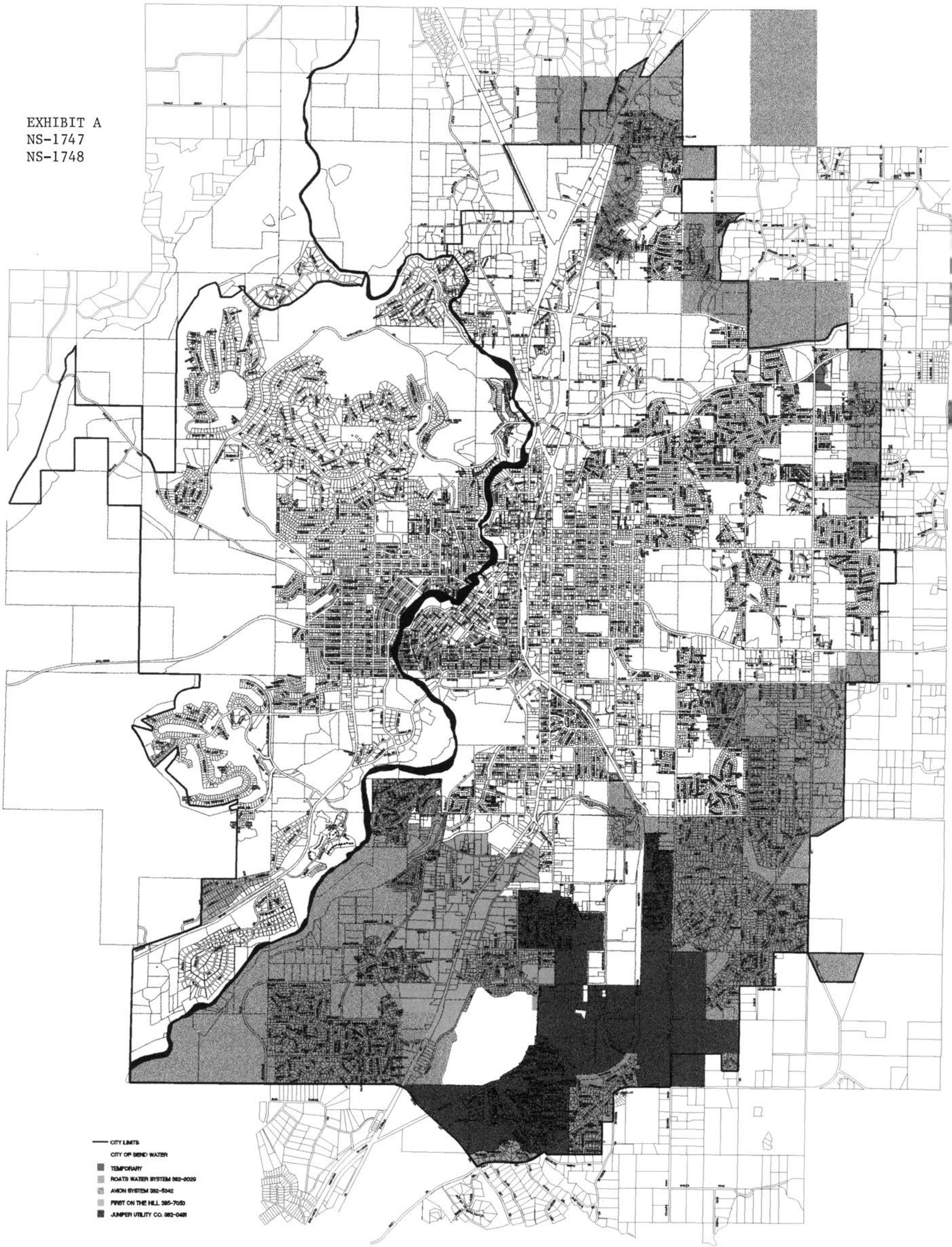
ATTEST:

Patricia Stell

Patricia Stell, City Recorder

Return To :
City of Bend
Development Services
P.O. Box 431
Bend, OR 97709

EXHIBIT A
NS-1747
NS-1748



WATER SERVICE PROVIDERS WITHIN CITY LIMITS
ADOPTED BY CITY COUNCIL ON 06/07/2000

City of Bend
Ordinance NS-1549
"EXHIBIT M"

EXHIBIT M

LAND USE AND DENSITY
FOR AWBREY BUTTE PURSUANT
TO CITY RESOLUTION NO. 1679

TEMPORARY

SERVICE TO BE DECIDED BY OWNER

C.O.C.&G.

BEND CITY LIMITS

NORTH

SCALE IN FEET

PATTERSON - LANGFORD & STEWART
CITY AND REGIONAL PLANNING - URBAN DESIGN
45 HAWTHORNE MEDFORD, OREGON 97501

THE PREPARATION OF THIS MAP WAS FINANCIALLY AIDED THROUGH A FEDERAL GRANT FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, UNDER THE COMPREHENSIVE PLANNING ASSISTANCE PROGRAM AUTHORIZED BY SECTION 701 OF THE HOUSING ACT OF 1954, AS AMENDED. CITY OF BEND AND DESCHUTES COUNTY, OREGON, FEBRUARY 10, 1974.

WATER SERVICE AREA EXHIBIT (4/91)

BEND AREA GENERAL PLAN

CITY OF BEND AND DESCHUTES COUNTY, OREGON

Exhibit "M"

Exhibit M Ordinance No. NS-1549