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DUNES CITY ZONING ORDINANCE

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**NOTE:	Changes resulting from Ordinance 52, correcting scrivener errors, and Ordinances 54, 64, 65, 70, 74, 75, 81, 84, 90, 91, 101, 112, 113, and 120 amending Ordinance 50, have been incorporated into this document. Incorporated into document April, 1988.	

CITY OF DUNES CITY, OREGON

ORDINANCE No. 50

An Ordinance establishing zones for Land Use for Dunes city, Oregon, and repealing Ordinance No. 3; Ordinance No. 12, and the Amendment thereto; Ordinance No. 40 and Ordinance No. 41.

The City of Dunes City Ordains as follows:

SECTION 1: TITLE, AUTHORITY, PURPOSE

1. Title: This Ordinance shall be known as the Dunes City Zoning Ordinance.
2. Authority: Consistent with the controlling provisions of ORS Chapter 227, and under the authority of the Dunes City Charter, land use zoning shall be governed by the provisions of this Ordinance.
3. Purpose: The purpose of this Ordinance is to: (1) provide procedures for dividing of Dunes City into districts and to provide requirements pertaining to such districts in accordance with the Dunes City Comprehensive Plan; (2) to protect and promote the public health, safety, and welfare of the citizens of Dunes City; and (3) to implement the Dunes City Comprehensive Plan.

ADOPTED JULY, 1978

SECTION 2: GENERAL PROVISIONS

- I. Policy Interpretations by City Council. It shall be the duty of the city council, in addition to those matters specifically provided in this Ordinance, to interpret matters of policy with respect to this Ordinance.
- II. Administrative Responsibilities of City Recorder. It shall be the duty of the City Recorder, in addition to those matters specifically provided or except where specifically provided otherwise in this Ordinance, to:
 - A. Administer and explain the provisions and requirements of this Ordinance.
 - B. Maintain official zoning maps indicating the current zoning districts.
- III. Appeal of Interpretations and Enforcement to City Council. It shall be the duty of the city council, when not otherwise expressly provided in this Ordinance, to hear and decide written appeals when it is alleged there is error or omission by the planning commission, or City Recorder, or in the interpretation and enforcement of this Ordinance.
- IV. Public Hearing Rules of Conduct. The city council and planning commission may establish their own rules for conduct of their respective public hearings required by this Ordinance or other law.
- V. General Public hearing notice provisions. In addition to the specific requirements provided in this Ordinance for public hearing notice, the following general provisions shall apply:
 - A. Continuation. Any public hearing may be continued by oral pronouncement prior to the close of such hearing if notice of the time and place thereof is publicly announced at the hearing or is given in the same manner as required for the first public hearing, and such announcement shall serve as sufficient notice of such continuance to all interested persons. Final action on a development permit or zone change shall occur within 120 days after the application has been received.
 - B. Rescheduling. In the event any meeting of the city council or planning commission at which a public hearing has been advertised must be rescheduled due to an emergency situation, the rescheduling of the meeting shall constitute sufficient notice of a public hearing provided the following minimum procedures are observed:

1. Notice is posted on the door of the building in which the hearing is scheduled advising of the cancellation and the date, time, and place for the rescheduled meeting.

2. Reasonable attempts are made prior to the scheduled hearing to announce the cancellation and rescheduling by direct communication to applicants and known interested parties and through available news media to the general public.

C. Additional Notice. The requirements of this Ordinance for public hearing notice shall not restrict additional notification considered necessary or desirable by the City Council or Planning Commission.

VI. Minimum Requirements. In interpreting and applying the provisions of this Ordinance such provisions shall be construed to be the minimum requirements for the promotion of the public health, safety, and welfare; therefore, where this Ordinance imposes a greater restriction upon the use of the buildings or premises, or upon the height of buildings, or requires larger open spaces than those imposed or required by other laws, ordinances, rules or regulations, the provisions of this Ordinance shall control.

VII. Conformance and Permits Required. No building or structure shall be erected, reconstructed, structurally altered, enlarged, or moved, nor shall any building, structure or land be used or designed to be used for any use other than is permitted in the zone in which such buildings, structure or land is located, and there only after proper application for and securing of all permits and licenses required by all applicable state and local laws.

VIII. Effective Filing Date of Applications and Requests. All applications and requests provided in this Ordinance shall be deemed filed upon the submission of all the information, materials, and fees required by this Ordinance.

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

SECTION 3: ZONING DISTRICTS, ZONING MAP AND OTHER APPLICABLE PROVISION

- I. Zoning Districts. In order to carry out the purpose and provisions of this Ordinance, land within Dunes City may be classified in one or more of the following districts:

Residential District (R-1) Open Space Overlay (OS)
Community Commercial District (CC) Fragile Lands Overlay (FL)

II. Zoning Map

- A. The boundaries for the zones established in this Ordinance shall be indicated on a map entitled "Zoning Map of Dunes City, Oregon." The "Zoning Map of Dunes City, Oregon" shall be adopted by separate ordinance in accordance with the provisions of this Ordinance for zoning and rezoning of land. (Section 9)
- B. Said zoning map shall be signed by the Mayor and City Recorder, and a copy filed with the Lane County Recorder. A copy of the zoning map shall be maintained on file with the City Recorder and shall be available at reasonable times for inspection by the public.
- C. Amendments to the "Zoning Map of Dunes City, Oregon" shall be by the adoption by ordinance of a zoning map clearly indicating the amended boundaries of the Zoning Map of Dunes City, Oregon. Upon adoption of an ordinance amending the "Zoning Map of Dunes City, Oregon" a copy of the Ordinance shall be filed with the Lane County Recorder and the City Recorder shall amend the boundaries of the "Zoning Map of Dunes City, Oregon" as provided by the adopted ordinance.

III. Interpretations of Zoning Boundaries. Where uncertainty exists regarding the specific location of a zone boundary, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following such city limits.

- D. Boundaries indicated as following railroad lines and public utility easements shall be construed to be midway between the main tracks or utility easements, whichever is applicable.
 - E. Boundaries indicated as following shore lines shall be construed to follow the high-water line. In the event of a change of high-water line, the boundary will follow the line no matter how it shifts. Boundaries indicated as following the centerlines of streams, rivers, or other bodies of water shall be construed to follow said centerline, and no matter how the centerline should shift, the boundary would remain the centerline as shifted.
 - F. Boundaries indicated as parallel to or extensions of features indicated in Section 3 (III)(A) through (E) above shall be so construed.
 - G. Where physical features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered by Section 3 (III)(A) through (F) above, the Planning Commission shall interpret the zone boundaries.
 - H. Where a zone boundary divides an ownership of property, the boundary shall be determined by the use of the scale appearing on the zoning map.
- IV. Zoning of Annexed Areas. Area annexed to the City shall be included within boundaries of zones established in this Ordinance. The Planning Commission shall, by resolution, determine the appropriate zoning as follows: (1) area not zoned before annexation shall be in the R-1 Residential Zone, and (2) area already zoned before annexation shall be in the City zone most closely approximating the zoning in effect prior to annexation or the zone indicated by the adopted Comprehensive Plan of the City.
- V. Treatment of Vacated Property. Where a public street or alley is officially vacated, the zoning district requirements applicable to the property of which the vacated area becomes a part shall apply to the vacated property.
- VI. Limitations on Refiling of Application. applications for which a substantially similar application has been denied within the previous year shall be heard by the Planning Commission only after the Commission's separate determination that for a good cause the application may be refiled.

SECTION 4: RESIDENTIAL (R-1) DISTRICT

- I. Purpose. The purpose of the Residential (R-1) District is to provide for rural residential living opportunities envisioned in the Dunes City Comprehensive Plan and to provide for development at densities which will be compatible with, and not adversely affect the open space, natural resources, and overall environmental quality of Dunes City.
- II. Permitted Buildings and Uses. In the R-1 District, the following types of buildings and uses are permitted as hereinafter specifically provided for by this Section, subject to the general provisions and exceptions set forth in this Ordinance:
 - A. One single-family dwelling per lot.
 - B. Guest house.
 - C. Accessory buildings and uses customarily provided in conjunction with a use permitted in this district.
 - D. Home Occupations (see Section 7 (II) for Home Occupation Provisions).
 - E. Public and semi-public buildings and uses essential to the physical, social, and economic welfare of Dunes City including, but not limited to, fire stations, substations, pump stations, wells, parks, playgrounds, and community centers.
 - F. Agriculture, including the growing and raising of trees, vines, shrubs, berries, vegetables, nursery stock, hay, grains, and similar food and fiber products.
 - G. Other uses similar to the above.
- III. Conditional Uses. The following conditional uses, subject to a Conditional Use Permit granted pursuant to the general provisions of this Ordinance providing for the granting of Conditional Use Permits. (Section 9 IX).
 - A. Mobile home, modular homes
 - B. Churches
 - C. Lodges, grange halls, clubs
 - D. Schools, public and private
 - E. Stables, riding academies

F. Kennels

G. Animal husbandry including:

1. The raising, tending or breeding of cattle, horses, sheep, goat bees, poultry, fur bearing animals and swine for purposes of domestic use. Such animal husbandry shall not be part of or be conducted in conjunction with any livestock sales yard, slaughter house, or animal by-product business. Such use shall include, but not be limited to, the raising of small fowl, animals for show, competitions, or projects sponsored or directed by a school, club, or other social or educational activity.
2. The City Council by resolution may eliminate from the conditional use process small numbers of small animals and fowl.
3. If the City Council should determine that an individual owns and maintains small animals and fowl on their premises in a number equal to or less than the number exempted by City Council from the conditional use process, but the animals are creating a nuisance, the City Council shall have the power and authority to notify the applicant that they must apply for a conditional use permit. The owners shall then immediately be obliged to apply for a conditional use permit and shall stand before the City Council in that process as though they had not yet acquired the offending small animals and/or fowl and were seeking permission to do so. They shall be subject to all of the requirements of Section 4 of the Dunes City Zoning Ordinance and subject to all of the requirements of Section 9 - IX of the Dunes City Ordinance.

H. Day nurseries, kindergartens

I. Campgrounds including youth camps

J. Two-, three-, and four-family dwellings

IV. General Development Standards and Requirements. The regulations for building height and setbacks, vision clearance, lot area dimensions and coverage, parking, and signs are provided in Section 6 - General Development Standards and Requirements.

V. Transfer of Property Between Adjacent Parcels

A. The transfer of property between adjacent parcels is permissible without approval by the City so long as the transfer does not result in the creation of a lot which is less than one acre in size, or unless the "donating" lot is less than one acre in size prior to the transfer of property to the adjoining parcel. In the event the transfer would create a lot of less than one acre in size, or the donating lot is less than one acre in size, such transfer shall require approval of the City. Approval shall be conditional and subject to a Conditional Use Permit being granted pursuant to the general provisions of this ordinance providing for the granting of conditional use permits (see Section 9-IX).

Lots which are conforming prior to donations of a portion of the lot to an adjoining lot shall remain conforming, so long as the transfers are made to conform with Section V-A above.

SECTION 5: COMMUNITY COMMERCIAL (CC) DISTRICT

I. Purpose. The Community Commercial (CC) District is intended to accommodate, at convenient locations within Dunes City, commercial activities which (1) provide the basic goods and services needed by the surrounding residents, and (2) provide appropriate tourist and recreational goods, services and facilities consistent with the Dunes City Comprehensive Plan.

II. Permitted Buildings and Uses

- A. Any use permitted outright or conditionally in the R-1 District.
- B. Grocery store, general store.
- C. Stores selling bakery products, dairy products, meat, fish, fruit, vegetables, feed and seed.
- D. Services stations, provided that greasing and tire repairing are performed completely within an enclosed building.
- E. Business and professional offices.
- F. Financial institutions.
- G. Nurseries, flora
- H. Clinics
- I. Restaurants, cafes
- J. Barber, beauty shops
- K. Curio and gift shops
- L. Marinas, boat launching, moorage facilities, boat rental and charter services
- M. Boat sales and repair service
- N. Mobile home park
- O. Travel trailer park
- P. Taverns, cocktail lounges
- Q. Rental facilities for boats and recreational vehicles
- R. Post Office
- S. Motels
- T. Churches

- U. Tourist parks
- V. Laundromat
- W. other uses similar to the above.

III. Conditional Uses. The following conditional uses are subject to a Conditional Use Permit granted pursuant to the general provisions of this Ordinance providing for the granting of Conditional Use Permits (Section 9 IX).

- A. Commercial or related activities which are not specifically provided in Section II, above but which are consistent with the Dunes City Comprehensive Plan.
- B. Automobile repair shop
- C. Lumber and building material stores
- D. Hardware stores

IV. General Development Standards and Requirements. The regulations for building height and setbacks, vision clearance, lot area dimensions and coverage, parking and signs are provided in Section 6 - General Development Standards and Requirements.

V. Signs. The erection of an on-premise sign is a permitted use except as specifically set forth below, and subject to the limitations set forth below.

A. Prohibited signs. Pennants, moving signs, flashing signs, signs which would block other commercial signs, traffic control signs, or such are prohibited. Signs which would interfere with, mislead, or obstruct traffic control signs, and thereby interfere with the motoring public are prohibited.

B. Height of Sign. No commercial sign in Dunes City shall exceed sixteen (16) feet in height from ground level, or the roadway surface, whichever is higher.

C. Definitions.

1. Premise. Premise is defined as a single commercial lot, or group of lots, upon which a business enterprise, or combination of business enterprises operate from a single continuous structure.
2. Free-Standing Sign. A free-standing sign is a sign not attached to any building, or improvement.
3. Building-mounted Signs. A building-mounted sign affixed to the side of roof of a building, or painted upon the exterior of a building or improvement.

4. Directional Signs. Directional signs are signs which guide customers to areas such as parking, laundry facilities, restrooms, boat ramps, etc., and whose principal purpose is not to solicit additional business.

D. Permits

1. New Signs. Any party wishing to erect a new sign must apply for a permit at the Dunes City Hall, and submit with said application a design done to scale indicating the dimensions, height of lettering, background colors, colors of lettering, and other designs, pictures, arrows, or such markings to be made upon the face of the sign.
2. Renovation and Repair of Old Signs. Existing signs may be repaired and repainted without obtaining a permit, so long as there is no significant change in the general dimensions, height, lettering, background colors, colors of lettering, and other designs, pictures, and arrows or markings made upon the face of the sign. In the event such a significant change should occur, it will be necessary to obtain a permit, and comply with the requirements of this Ordinance.
3. Fees. The city council shall set by resolution fees for obtaining sign permits.

- E. Size of Signs. Commercial property facing Highway 101 shall be entitled to erect a sign whose face does not exceed 125 square feet in a single direction. At other commercial locations, the face of a sign shall not exceed 64 square feet in any direction. In no instance shall the City permit a business to erect upon a premise free-standing and building-mounted signs in excess of 250 total square feet. Two-way signs shall include the square footage on both sides when calculating the total sign square footage. Off-premise signs shall not be computed in the total square footage of the business.

A business seeking signs in excess of 250 square feet may apply for a conditional use permit, and the permit will be issued pursuant to the criteria set forth in Section Nine dealing with conditional Use Permits. The City shall, by resolution, set a fee for obtaining said permit.

- F. Off-Premise Signs. Off-premise signs shall require a conditional use permit, the fee for which shall be established by resolution by city council. Off-premise signs are permitted only for the purposes of directing customers to the business enterprise.

- G. Number of Signs. Only a single two-way free-standing sign or two one-way signs will be permitted on a business enterprise so long as they are at least 150 feet apart.
- H. Grandfather. All existing commercial signs in Dunes City are grandfathered and may be maintained so long as the use is not expanded or substantially modified.
- I. Hearings. The application for permit shall be tendered to the planning commission, at which a hearing will be held. The planning commission will make findings of fact, reach conclusions of law, tender recommendations to the city council. If the applicant wishes a hearing, and an opportunity for input at city council level, the applicant must request such an opportunity. Otherwise, the city council will consider the matter on the record and affirm, modify or reverse the recommendation of the planning commission. In the event of modification or rejection of the planning commission recommendations, the city council, at its discretion, may accept public comment and input.
- VI. Purposes. The purpose of this Ordinance is two fold. First of all, it is the intent of the city council that commercial signs which are significantly altered or newly established, should be compatible with the existing neighborhood in respect to size, location, number, shape, color, lettering, similar aspects. The second purpose of this Ordinance is to avoid "sign clutter". That is to say, the City must balance the need of business establishments to attract customers through reasonable advertising, while avoiding generating eyesores created by multiple signs.
- VII. Exemptions. Operators of commercial establishments are allowed on (1) rating sign issued by a nationally recognized rating organization for campgrounds, restaurants, or motels, per establishment, in addition to its existing signs, and may attach said rating signs to the existing signs without applying for additional sign permits. However, the addition considered one sign, must not exceed the existing sign limitations specified in the zoning ordinance and sign ordinance regarding size, total sign size, color, height, prohibited signs, etc.

SECTION 5.1: OPEN SPACE OVERLAY ZONE

- I. Purpose. Dunes City has determined as a matter of policy that significant development restraints should be placed upon certain lands. These lands shall be generally designated OS. OS lands shall be further delineated according to whether they are lakes (OS-L) or shorelands (OS-S), as defined herein and by the Dunes City Comprehensive Plan. These designations, and their attendant development restrictions, shall attach to appropriate zoned and unzoned lands within Dunes City.

The purpose of the OS designation is to prevent irreparable ecological damage and construction upon land which will flood, not support structures, etc. Specific development restraints shall be accorded different sub-designations as follows:

II. Lakes. For purposes of this ordinance, lakes are defined as all waters within that portion of Woahink Lake falling within Dunes City city limits, measured at the mean high water mark.

A. Permitted Uses

Recreational uses such as swimming, fishing or boating and water supply for community water systems.

B. Conditional Uses:

1. Boat houses and docks are the only conditional uses allowed in OS-1 zones, but only to the extent that:

(a) The color scheme is recommended by the planning commission and approved by the city council. Said color scheme is to be of earth tones, subdued, and blend with the rural forest nature of Dunes City.

(b) Only one (1) Dock/Boathouse may be erected per lot.

(c) The City shall have the right to require placement of the structure at its discretion.

(d) If extensive shallows make a dock impractical without dredging, said dock shall not be permitted.

(f) Residential house boats are not an acceptable conditional use upon Woahink Lake and will not be approved.

III. Shorelands. For purposes of this ordinance, shorelands are defined as all lands within 50 feet of the mean high water line of Woahink and Siltcoos lakes and Woahink Creek, and lands comprised of the following soil types: Nestucca, 145A; Heceta, 204A; and Brallier, 20A; identified as wetlands on the Shorelands Map in the Dunes City Comprehensive Plan.

A. Permitted Uses

Low intensity uses such as parks, playgrounds, walking trails and similar uses are allowed.

B. Conditional Uses

1. Those uses set forth in paragraph II.B.1.

2. Structures which can meet variance criteria and underlying zone limitations.

C. Other Requirements

Public access in coastal shoreland areas shall be retained or replaced when public property, rights-of-way or public easements are sold, exchanged or transferred. The planning commission will review all vacations of rights-of-way and easements against the requirements outlined in the Comprehensive Plan policy.

No more than one water access development (boathouse, dock, pier, wharf, or combination) shall be allowed per lake front lot, consistent with reasonable use.

- IV. Booth Island. An Open Space Overlay Zone shall apply to the unplatted areas of Booth Island.

A. Permitted Uses

Low intensity uses such as hiking, walking, observation and other similar uses are allowed.

B. Conditional Uses

Structures which can meet variance criteria and underlying zone limitations.

SECTION 5.2: FRAGILE LANDS OVERLAY ZONE

- I. Purpose. Dunes City has determined as a matter of policy that significant development restraints be placed upon certain fragile lands. These lands shall be generally designated FL. FL lands shall be further delineated according to whether they are excessive in slope (FL-S) or stabilized or active dunes (FL-D), as defined herein and by the Dunes City Comprehensive Plan. Maps, as shown on Page 41 (Geology) and on Page 43 (Geological Constraints).

The purpose of the FL designation is to prevent irreparable ecological damage and construction upon land where development can create potential for wind and water erosion. In the interests of protecting the general health, welfare and safety of the citizens of Dunes City, the different FL sub-designations shall be defined and implemented as follows:

- II. Excessive Slopes. For purposes of this ordinance, excessive slopes are those slopes 12 degrees or steeper, as generally identified on the Dunes City Comprehensive Plan's Geological Constraints Map.

A. Permitted Uses

1. All uses Permitted are allowed in the underlying zone except that:

(a) Development on slopes 12 percent to 16 percent shall be subject to site review and approval by the city council. The council may require the applicant to obtain an engineer's or geologist's report concerning the property and development in question.

(b) Development on slopes greater than 16 percent will be allowed only after the applicant has supplied proof of safety of the proposed development. For purposes of this ordinance, an engineering geologist's report or a foundation design by a licensed architect or engineer shall satisfy proof of safety of the proposed development.

B. Conditional Uses

All conditional uses allowed in the underlying zone and subject to the slope requirements outlined in Section II.A. above.

III. Stabilized or Active Dunes. for purposes of this ordinance, applicable dunes are those lands where development will destroy sand stabilizing surface vegetation or expose loose or cemented sand to wind or water erosion. Examples of soil and Netarts, 240c, as generally identified on the Dunes City Comprehensive Plan's Geology Map.

1. All permitted uses allowed in the underlying zone except that:

(a) All development proposals shall be subject to a site review by the city council. The council may require the applicant to prepare a plan to re-vegetate damaged areas and to negate any erosion potential caused by the proposed development.

(b) All applicants proposing development in stabilized or active dune areas shall post a bond or deposit of money in lieu thereof, with the City Recorder, in the amount of \$1,000 per acre, to ensure that required re-vegetation and erosion control measures are successfully carried out.

2. Conditional Uses

All conditional uses allowed in the underlying zone subject to the requirements of Section III.A., above.

SECTION 6: GENERAL DEVELOPMENT STANDARDS AND REQUIREMENTS

I. Building and Lot Requirements. Land shall be divided and developed and buildings shall be erected, altered, moved or maintained in compliance with the following standards:

A. Table of lot area, width and coverage, yard setbacks, building height, vision clearance.

	R-1 DISTRICT	CC DISTRICT
Minimum Lot Area	1 acre	1 acre
Minimum Average Width	150 feet	150 feet
Maximum Lot Coverage	30%	Structures 50% Structure & Parking Combined 70%
Setbacks (feet)		
Front Yard (Highway 101)	30' from prop. line	30' from prop. line
Front Yard (all other roads)	25' from prop. line	25' from prop. line
Street side yard for corner lots	15' from prop. line	15' from prop. line
Interior Side Yard	10 feet	10 feet
Rear Yard	10 feet	10 feet
Shoreline (excluding water-dependent structures)	50 feet	50 feet
Vision Clearance		
Street intersection	25 feet	25 feet
Street-alley intersection	10 feet	10 feet
Building Maximum Height	Two and one-half (2 1/2) stories or 32 feet, whichever is lesser, measured from grade.	

**See also page 25 of Subdivision Ordinance concerning lot depth.

B. Additional Setback Requirements

1. The following building features may project into the required front yard no more than five (5) feet and into the required interior yards no more than two (2) feet provided that such projections are not closer than three (3) feet to any interior lot line:

- (a) Eaves, cornices, belt courses, sills, awnings, buttresses, air conditioners or other similar features.
- (b) Chimneys and fireplaces, provided they do not exceed eight (8) feet in width.
- (c) Porches, platforms or landings which do not extend above the level of the first floor of the building.
- (d) Signs conforming to all other applicable ordinances.

2. Where a utility easement is recorded, the setback shall not be less than the width of the easement.

3. Fences and Walls:

- (a) In the Residential District (R-1), a fence or wall, not to exceed six (6) feet in height may be located or maintained within the required interior yards except where the requirements of vision clearance apply. Such fences or walls may be placed in front yards provided such fences or walls do not exceed three and one-half (3 1/2) feet in height.
- (b) In the Community Commercial (CC) District, fences or walls not to exceed eight (8) feet in height may be located or maintained in any yard except where the requirements of vision clearance apply.

C. Additional Height Requirements

1. Height limits established for the respective districts refer to the height of the building proper. Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, T.V. antennas, steeples and similar structures may be erected above the height limits prescribed in this ordinance, provided that no

roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space.

2. The maximum height of building permitted conditionally shall be the same as the requirements of the district in which it is located unless otherwise specified.

D. Additional Lot Area Requirements

The minimum area requirements of this section shall not be construed to govern in situations where greater minimum area requirements are imposed or required by state law, state rules and regulations, or the provisions of this ordinance.

E. Parking Requirements

Buildings erected or enlarged or uses established or changed after the effective date of this ordinance shall comply with the following parking requirements.

1. Required Parking Spaces

USE	PARKING SPACES REQUIRED
(a) One- or two-family dwelling/mobile home	Two parking spaces per dwelling unit
(b) Retail, Commercial Establishments	One for every 300 square feet of gross floor area or 5 1/2 spaces per 1,000 square feet, whichever provides the greatest amount of parking
(c) Business and Professional Offices	One for every 250 square feet of gross floor area or 2 1/2 spaces per 1,000 square ft. of gross floor area, whichever provides the greatest amount of parking
(d) Medical Offices, Clinics	6 1/2 spaces per doctor or 150 square feet of gross floor area, whichever provides the greatest amount of parking
(e) Motels	One space per lodging unit, plus one for every restaurant seats

- (f) Churches, Clubs, Lodges One space for every four fixed seats, or every eight feet of bench length or every 28 square feet in the main auditorium or place of worship where no permanent seats or benches are maintained
- (g) Restaurants One space per 200 square feet of floor area, plus one space per employee

2. Parking Requirements for Uses not Specified

The parking space requirements for buildings and uses not set forth herein shall be determined by the Planning Commission and such determination shall be based upon the requirements for the most comparable building or use specified herein. The decision of the Planning Commission may be appealed to the City Council in the manner allowed for appeals of site review requirements as specified in Section 9 (XII).

3. Common Facilities for Mixed Uses

- (a) In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses of 5.5 spaces per 1,000 feet of gross floor area, whichever provides the greatest amount of parking. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except as provided in (b) below.
- (b) Joint use of parking facilities: The Planning Commission may authorize the joint use of parking facilities required by said uses and any other parking facility, provided that:
- (1) The applicant shows that there is no substantial conflict in the principal operating hours of the building or use for which the joint use of parking facilities is proposed
- (2) The parking facility for which joint use is proposed is no further than 400 feet from the building or use required to have provided parking and

- (3) The parties concerned in the joint use of off-street parking facilities shall evidence agreement for such joint use by a legal instrument approved by the City Attorney as to form and content. Such instrument, when approved as conforming to the provisions of this ordinance, shall be recorded in the office of the City Recorder.

4. Parking Area Design and Improvement Requirement

All public or private parking areas which contain three (3) or more parking spaces and outdoor vehicle sales areas shall be designed and improved according to the following:

- (a) Groups of five (5) or more parking spaces, except those in conjunction with single-family dwellings on a single lot, shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a street, other than an alley, will be required. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety in traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum which will allow the property to accommodate and service anticipated traffic.
- (b) On parking lots having five (5) or more parking spaces, such spaces shall be clearly marked in a permanent manner.
- (c) All new parking areas shall have a durable, dust-free surfacing of asphaltic concrete, Portland cement concrete or other approved materials. All parking areas, except those in conjunction with a residential use shall be graded so as not to drain storm water onto any abutting public or private property.
- (d) All parking areas, except those required in conjunction with a residential use, shall provide a substantial bumper which will prevent cars from encroachment on abutting private and public property.
- (e) All parking areas, including service drives in the Community Commercial District except those required in conjunction with a residential use, which abut a residential district, and which require an interior yard setback, shall be enclosed along and immediately adjacent to, any interior property which abuts any residential

district, with opaque, site-obscuring fence, wall or hedge not less than three (3) feet nor more than eight (8) feet in height, but adhering to the visual clearance and front and interior yard requirements established for the Community Commercial District. If the fence, wall or hedge is not located on the property line, said area between the fence, wall or hedge and the property line shall be landscaped with lawn or low-growing evergreen ground cover, or vegetable or rock mulch. All plant vegetation in this area shall be adequately maintained, and said fence, wall or hedge shall be maintained in good condition. Screening or planting shall be of such size as to provide the required degree of screening within twelve (12) months after installation. Adequate provisions shall be maintained to protect walls, fences or plant materials from being damaged by vehicles using said parking area.

- (f) Any lights provided to illuminate any public or private parking area shall be so arranged as to reflect the light away from any abutting or adjacent residential district.

5. Parking Table and Diagram

The following table provides the minimum dimensions of public or private parking areas, based on the diagram where "A" equals the parking angle, "B" equals the stall width, "C" equals the minimum stall depth, "D" equals the minimum clear aisle width, "E" equals the staff distance at bay side, "F" equals the minimum clear bay width, and "G" is the maximum permitted decrease in clear aisle width for private parking areas.

6. Offstreet Loading

Commercial or other non-residential buildings erected or established which abut upon an alley or street shall have on permanently maintained loading space for commercial vehicles of not less than ten feet in width and twenty-two feet in length for each thousand square feet of lot area or fraction thereof upon which the building is located, provided that not more than two such loading spaces shall be required.

7. No structure erected or renovated in Dunes City shall be occupied or otherwise utilized until such time as the applicant has caused to be delivered to the City Recorder proof that all inspections and permits required by this Ordinance and other Ordinances of the City of Dunes City, and other applicable State and Municipal Statutes and Ordinances have been complied with, and the structure, method of construction, required clean-up and repairs have, in all aspects, been completed. This includes, but is not limited to, the requirement that the applicant must comply with State and local requirements dealing with fire, health and safety protection.

F. Sign Requirements

1. Within the Residential District signs and nameplates may be installed as follows:
 - (a) One nameplate not exceeding four square feet in area for each dwelling unit, indicating the name of the occupant and/or identifying the home occupation.
 - (b) One sign not exceeding 12 square feet in area for buildings other than dwellings.
 - (c) One sign not exceeding six square feet, pertaining to the sale or rental of developed property.
 - (d) One sign not exceeding 18 square feet in area will be allowed on a tract of land advertising the sale of the property.
2. Signs announcing the division and improvement of property in the Residential (R-1) District may be erected provided that:
 - (a) The sign does not exceed 50 square feet in area.
 - (b) The sign may be double-faced.

- (c) The top sign shall not be more than 10 feet above the ground level and shall not be erected nearer than 10 feet to any property line.
 - (d) Two such signs are permitted in each subdivision larger than five acres and fronting on two or more streets.
 - (e) Such signs must be removed no later than two years after being installed unless an extension of time is granted by the Planning Commission.
 - (f) Two directional signs, each being six square feet or less, being either single- or double-faced, may be erected outside the platted subdivision area, no within the public right-of-way.
3. No sign shall be constructed, erected or maintained which:
- (a) Bears or contains statements, words or pictures of an obscene, indecent or immoral character, such as will offend public morals or decency.
 - (b) Purports to be or is an imitation of, or resembles an official traffic sign or signal, or which bears the words "STOP", "GO SLOW", "CAUTION", "DANGER", "WARNING", or similar words.
 - (c) By reason of its size, location, movement, content, coloring or manner of illumination may be confused with or construed as a traffic control device; or which hides from view any traffic or street sign or signal.
 - (d) Advertises or publicizes an activity, business product or service no longer conducted on the premises upon which such signs are maintained.
 - (e) Carries a message on a rotating or moving part. Only minor decorative parts of signs may move or rotate.
 - (f) Uses banners, flags, poster, pennants, ribbons, streamers, strings of light bulbs, spinners, oral or olfactory devices.

G. Water Requirements

No building permit shall be approved unless the structure has a water system meeting state codes. In addition, if a well system is proposed, and it is probable that a significant drawdown of the water table will occur, or is occurring, the City will disallow development.

H. Solar Setback Requirements

New structures or enlargements of existing structures shall comply with the following solar setback requirements:

1. South Wall Protection Standard. No new structure or addition shall cast a shadow upon adjacent lots that is longer than that cast by an 8 foot high fence located on the north property line at solar noon on December 21st.. The solar setback shall not exceed one-half the distance between the north and south property lines. If the solar setback is not feasible due to waiver provisions listed in (3) below, then the structure shall meet the standard set in (2) below..
2. South Roof Protection Standard. No new structure or addition shall cast a shadow upon adjacent lots that is longer than that cast by a 16 foot high solar fence located on the north property line at solar noon on December 21st.. The solar setback shall not exceed one-half the distance between the north and south property lines. If the solar setback is not feasible due to the waiver provisions listed in (3) below, then the structure shall be located as far south as is feasible.
3. Waiver of Solar Setback. The governing body or its designated agent may partially or completely waive the solar setback for any structure of addition whose shade will affect a protected area which is already substantially shaded by other sources, or whose lot contains substantial physical constraints, including but not limited to northfacing slopes greater than 15 degrees, septic tanks, lot dimensions, waterways, and existing legal restrictions.

SECTION 7: SPECIAL DEVELOPMENT STANDARDS AND REQUIREMENTS

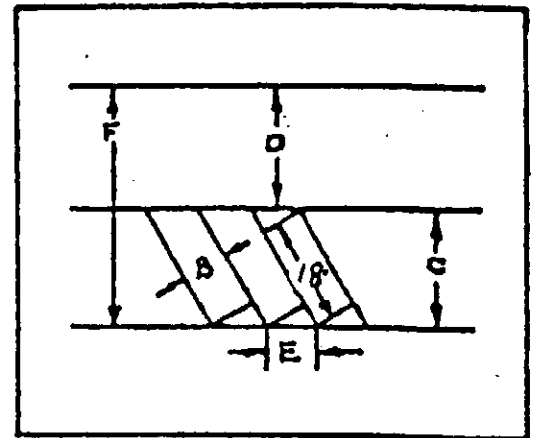
- I. Mobile Home and Travel Trailer Parks. Mobile home and travel trailer parks approved by the city council shall be designed, constructed and maintained according to the following standards and requirements:

A. Site Plan Submission

1. Preliminary Site Plan Submission Requirements: In addition to the general Conditional Use Permit application requirements of this ordinance, the application for a Conditional Use Permit to construct a new mobile home park or to expand an existing mobile home park shall be accompanied by a plot plan and six copies showing the general layout of the entire mobile home park and drawn to a scale not smaller than one inch representing forty feet. The drawing shall show the following information:
 - (a) Name of the person who prepared the plan.
 - (b) Name of the mobile home park and address.
 - (c) Scale and north point of the plan.
 - (d) Vicinity map showing relationship of mobile home park and adjacent properties.
 - (e) Boundaries and dimensions of the mobile home park.
 - (f) Location and dimensions of each mobile home site; designate each site by number, letter or name.
 - (g) Location and dimensions of each existing or proposed building.
 - (h) Location and width of park streets.
 - (i) Location and width of walkways.
 - (j) Location of each lighting fixture for lighting the mobile home park.
 - (k) Location of recreational areas and buildings, and area of recreational park.
 - (l) Location and type of landscaping plantings, fence, wall, or combination of any of these, or other screening materials.
 - (m) Location of point where mobile home park water system connects with public system.

PARKING TABLE DIAGRAM

A	B	C	D	E	F	G
Parallel	8'0"		12.0	22.0	20.0	2
20°	8'0"	13.6	11.0	23.4	24.6	1
	8'6"	14.1	11.0	24.9	25.1	
	9'0"	14.6	11.0	26.3	25.6	
	9'6"	15.1	11.0	27.8	26.1	
	10'0"	15.5	11.0	29.2	26.5	
30°	8'0"	16.0	11.0	16.0	27.0	1
	8'6"	16.4	11.0	17.0	27.4	
	9'0"	16.8	11.0	18.0	27.8	
	9'6"	17.3	11.0	19.0	28.3	
	10'6"	17.7	11.0	20.0	28.7	
45°	8'0"	18.4	14.0	11.3	32.4	3
	8'6"	18.7	13.5	12.0	32.2	
	9'0"	19.1	13.0	12.7	32.1	
	9'6"	19.4	13.0	13.4	32.4	
	10'0"	19.8	13.0	14.1	32.8	
60°	8'0"	19.7	19.0	9.2	38.7	3
	8'6"	20.0	18.5	9.8	38.5	
	9'0"	20.3	18.0	10.4	38.3	
	9'5"	20.5	18.0	11.0	38.5	
	10'0"	20.8	18.0	11.5	38.8	
70°	8'0"	19.8	20.0	8.5	39.8	3
	8'6"	20.1	19.5	9.0	39.6	
	9'0"	20.4	19.0	9.6	39.4	
	9'6"	20.6	18.5	10.1	39.1	
	10'0"	20.9	18.0	10.6	38.9	
80°	8'0"	19.2	25.0	8.1	44.2	3
	8'6"	19.3	24.0	8.6	43.3	
	9'0"	19.4	24.0	9.1	43.4	
	9'6"	19.5	24.0	9.6	43.5	
	10'0"	19.6	24.0	10.2	43.6	
90°	8'0"	18.0	26.0	8.0	44.0	3
	8'6"	18.0	25.0	8.5	43.0	
	9'0"	18.0	24.0	9.0	42.0	
	9'6"	18.0	24.0	9.5	42.0	
	10'0"	18.0	24.0	10.0	42.0	



PARKING DIAGRAM

The above diagram is explanatory to Parking Table

- (n) Location of available fire and irrigation hydrants.
- (o) Location of public telephone service for the park.
- (p) Enlarged plot plan of a typical mobile home site, showing location of the pad, patio, storage space, parking, sidewalk, utility connections and landscaping.

2. Final Site Plan Submission Requirements: At the time of application for a permit to construct a new mobile home park, or expansion of an existing mobile home park, the applicant shall submit six copies of the following required detailed plans:

- (a) New structures.
- (b) Water supply and sewage disposal systems.
- (c) Electrical systems.
- (d) Road, sidewalk and patio construction.
- (e) Drainage system.
- (f) Recreational area improvements.

3. The replacement of existing stick-built structures situated within a mobile home or travel trailer park with a mobile home-type structure shall not be subject to the requirements of Section Seven I.A. Section Seven I.A. 3. is not intended to excuse a person who would replace such a structure with a mobile home-type structure from the normal permits which must be obtained; and in addition, the project must meet the standards set forth in paragraph B immediately below.

B. Development Standards

- 1. Park Area: No mobile home park or travel trailer park should be created on a lot or parcel of land less than five acres in area.
- 2. Space Requirements
 - (a) Each mobile home site shall contain at least 6,000 square feet. Each mobile home site shall be at least 60 feet wide and 100 feet long.
 - (b) Each travel trailer site shall contain at least 1,500 square feet. Each travel trailer site shall be at least 30 feet wide and 50 feet long.

4. Setbacks: No mobile home, travel trailer or accessory thereto shall be located closer than 25 feet from a park property line abutting on a public street or road, 10 feet from all other park boundary lines and 10 feet from any such areas as a park street, a common parking area, or a common walkway.

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No mobile home, travel trailer or accessory thereto shall be located closer than 5 feet to a mobile home site or travel trailer site boundary line, closer than 10 feet to a building, or closer than 15 feet to another mobile home or travel trailer.

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5. Access: A mobile home park or travel trailer park shall not be established on any site that does not have frontage on and access to a county or public road.

6. Park Streets/Driveways: the minimum width for driveways on which automobile parking is not permitted shall be twenty-five (25) feet; driveways on which parking is to be permitted on one side shall be thirty-three (33) feet wide; driveways on which parking is permitted on both sides shall be forty-one (41) feet wide.

7. Off-Street Parking: Off-street parking areas shall be provided at the rate of at least two car spaces for each mobile home site and at least one car space for each travel trailer site. At least one required space must be located on each site. The remainder shall be located within at least two hundred (200) feet from the sites they are intended to serve.

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8. Walkways: Walkways of not less than three feet in width shall be provided from each mobile home site to any service buildings and recreation area.

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9. Paving: Park streets and walkways shall be paved with a crushed rock base and asphaltic or concrete surfacing.

10. Recreation areas:

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- (a) In all parks with twenty-five (25) or more mobile home and travel trailer sites, there shall be one or more outdoor recreation areas easily accessible to all park residents and available for year-round recreational use.

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- (b) Recreation areas shall contain a minimum of five thousand (5,000) square feet, and shall contain an additional one hundred (100) square feet for every mobile home and travel trailer site in excess of fifty (50) sites.

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(c) Recreation areas shall be centrally located and free of traffic hazards whenever possible.

11. Pad Improvements: Mobile home pads shall be paved with asphaltic or concrete surfacing, or with crushed rock contained in concrete curbing.

12. Accessories: Accessories shall be limited to awning, cabana, ramada, patio, carport, garage or storage building. No structural additions shall be built on or become part of any mobile home or travel trailer.

13. Fencing and Landscaping: Every mobile home or travel trailer park shall provide an ornamental, sight-obscuring fence, wall, evergreen, or other suitable screening/planting along all boundaries of the mobile home park site that abuts on public roads or property lines that are common to other owners of property, except for points of ingress and egress.

Walls or fences shall be at least six feet in height. Where walls or fences are required along boundaries that abut on public roads, said walls or fences shall set back from the property lines to conform with setbacks for structures in the zoning district, or as is otherwise required in the Conditional Use Permit. Evergreen planting used as the required fencing shall not be less than five feet in height, and shall be maintained in a living condition for the life of the mobile home park.

14. Signs: One sign not exceeding eighteen (18) square feet in area, which will be allowed on a tract of land under one ownership to designate the name of the mobile home park or travel trailer park. The sign may be indirectly lighted, but shall be non-flashing. Said sign shall conform to the setbacks designated for structures in the zone in which it is located.

Incidental signs for the information and convenience of tenants and the public, relative to parking, traffic movement, office, lavatories, etc., are allowed, provided such signs do not exceed three square feet in size.

No nameplate or advertising signs of any other character shall be permitted.

15. Non-Residential Uses: No part of any mobile home park shall be used for non-residential purposes except such uses that are required for the direct service for an well-being of park residents and for the management of the park.

16. Additional Development Requirements: Additional development requirements may be prescribed as conditions when such requirements are determined to be necessary to ensure the protection of the character of neighboring properties, the compatibility of land uses, and the health and safety of mobile home park occupants.
17. Solar Setback Requirements: No mobile home, travel trailer or accessory thereto taller than 12 feet shall cast a shadow upon neighboring lots located on the north park or site boundary line at noon on December 21. If not feasible due to physical constraints of the lot, including but not limited to septic systems, existing legal restrictions or lot dimensions, then the structure shall not cast a shadow upon adjacent lots longer than that cast by a 16 foot high fence located on the north park or site boundary line. The solar setback standard shall not apply if the applicant establishes that it is not feasible due to physical constraints of the local including but not limited to northfacing slopes exceeding 15 degrees, septic tanks, lot dimensions, waterways and existing legal restrictions.

C. State Requirements

Rules and regulations governing mobile home facilities as contained in Oregon Revised Statutes, Chapter 446, and "Rules and Regulations governing the Construction and Statutory Operation of Travelers' Accommodations and Tourist Parks," adopted by the Oregon State Board of Health, shall be applicable in the development and operation of a mobile home park, provided, however, that the provisions of this ordinance shall prevail where said provisions are more stringent than those imposed by state law, rules or regulations.

II. Home Occupations

A. Purpose

Home Occupations are intended to allow individuals the opportunity to conduct those types of small-scale business activities within their homes which are conducive to and not incompatible with the normal functions of the home and at the same time are not detrimental to or in conflict with the nature and character of a residential neighborhood.

It is the intent of this ordinance that full-scale commercial or professional operations, which would ordinarily be conducted in a commercial district, continue to be conducted in such districts and not at home.

B. Allowable Home Occupations

The following home occupations are listed as examples of those that might meet the requirements provided in Subsection D.

1. Headquarters for babysitting bureau, craftsman, and salesman, excluding real estate, provided that the operation of the activity is conducted primarily by telephone or mail.
2. Custom sewing services including hemstitching, dress-making, pleating, quilting, seamstress, stitching, and tucking, provided that all of these activities use material owned by individual customers.
3. Minor repair services including watches, jewelry, electric razors, radios, T.V.'s and clocks.
4. Business locations for large household appliance repair services (e.g., washing machines, refrigerators) provided there is no repair activity on the property.
5. Studios for instruction in arts, handicrafts, music, and tutoring. Instruction in music is to be limited to two students at a time. Tutoring and instruction in arts and handicrafts are to be limited to five students.
6. Rug, upholstery, and furniture cleaning, provided all articles are cleaned upon the customer's premises.
7. Beauty salons, provided that the activity is limited to three customers at a time.
8. Small pet grooming, provided that the activity is limited to no more than two pets at any one time and operated only between 8:00 a.m. and 6:00 p.m. No pets may be kept overnight.
9. Other personal services similar to the above.

C. Limitations

Home Occupations may not be established, conducted or continued if to do so will cause:

1. Generation of excessive traffic.
2. Monopoly of on-street parking spaces.
3. Frequent deliveries and pick-ups by motor freight trucks.

4. Noise, smoke, fumes, odors, or traffic in excess of that created by normal residential use, either in terms of volume or hours of occurrence.
5. The dwelling to have the characteristics of other than a residence.
6. Other offensive activities not in harmony with a residential neighborhood.

D. Requirements

1. Not more than one unlighted nameplate for each dwelling unit, attached flat against the main building, not exceeding one square foot, containing only the name and/or business or profession of the occupant of the premises shall be permitted. In those zoning district classifications where these sign regulations conflict with the general sign regulations of the district, the sign requirements for home occupations therein take precedence.
2. Employees shall be limited to the residents of the home. No outside employees shall be allowed.
3. No dwelling shall be used as headquarters for the assembly of employees for instructions or other purposes, or to be dispatched for work at other locations.
4. All aspects of the conduct of a home occupation shall be contained and conducted within the dwelling or within a completely enclosed accessory building.
5. There shall be no display, other than the permitted nameplate, that will indicate from the exterior that the property or dwelling is being utilized in whole or in part for any purpose other than for residential purposes.
6. There shall be no commodity sold upon the premises, except that products made or sold may be disposed of by delivery from the premises to the homes or places of business of customers.
7. Customer and client contact shall be primarily by telephone, mail, or in their homes and places of business, except for those home occupations which, by their very nature, cannot otherwise be conducted except by personal contact upon the premises.

8. The aggregate of all space within any dwelling devoted to a home occupation shall not exceed 300 square feet in floor area or an area equal to twenty-five (25) percent of the floor area of the dwelling, whichever is lesser.

E. Establishment and Adherence of Limitations

Any Home Occupation conforming to the limitations and requirements of this Ordinance may be allowed in the zoning districts so provided. Failure to adhere to the limitations of Subsection D, above, shall not constitute a violation of this Ordinance unless the alleged violator has been sent by certified mail, handed in person, or had posted on his front door, written notice by the Planning Commission of the failure to adhere to the limitations of Subsection D.

SECTION 8: PLANNED UNIT DEVELOPMENT

- I. Description and Purpose. The provisions of this Section shall be known as the Planned Unit Development requirements and procedures. Its purpose is to set forth the objectives, principles, standards, and procedures to be used in developing a Planned Unit Development (PUD) Sub-District. The Planned Unit Development Section is designed to permit the flexibility needed to encourage the appropriate development of tracts of land that are large enough to allow the use of individualized comprehensive planning. It is intended to provide flexibility in the application of certain regulations in a manner consistent with the general intent and provisions of the Comprehensive Plan for Dunes City and Dunes City Zoning Ordinance, thereby promoting a harmonious variety of uses, the economy of shared services and facilities, compatibility of surrounding areas, and the creation of attractive, healthful, efficient and stable environments for living, shopping, recreation, or working.

Planned Unit Development, for purposes of this Ordinance, is described as: An optional approach to community development which allows modification of the more or less rigid setback, lot size specifications and land use provisions of Dunes City Zoning Ordinance Building Code and Subdivision Ordinance, and instead establishes broad standards and goals to be followed, thus enabling and encouraging flexibility of design and development. Often based on the concept of cluster planning, it allows single-family and two-family houses of varying sizes and appropriate commercial and other uses to be built in the same development, thus inviting considerable variety in both tract and building design and uses, the possible retention of natural settings or community recreational areas, and reduced street and utility installation cost. Although the density of the total area remains consistent with that of normal development, emphasis is placed on the relationship between buildings, uses, and open space, and the most efficient use of both natural and development resources, rather than planning on a lot-by-lot or building-by-building basis.

- II. Objectives. The general objectives of the Planned Unit Development Sub-District are:
- A. To encourage innovations and variety in the development or reuse of property.
 - B. To maximize choice in the type of environment available in Dunes City.

- C. To encourage a more efficient use of land and of public services and facilities.
 - D. To take advantage of and promote advances in technology, architectural design, and functional land use design.
 - E. To provide for the enhancement and preservation of property with unique features (e.g., historical, topographical, and natural landscape).
 - F. To simplify processing of development proposals for developers and the planning commission by providing for concurrent review of land use, subdivision, public improvements and siting considerations.
 - G. to enable special problem areas or sites in Dunes City to be developed or improved, in particular where these areas or sites are characterized by special features of geography, topography, size, shape or historical legal nonconformance.
 - H. To provide an environment of stable character in harmony with surrounding development or use, or proposed development or use.
 - I. To permit flexibility of design that will create desirable public and private common open spaces, a variety in type, design, and layout of buildings, and utilize to the best possible extent the potentials of individual sites.
 - J. To assist in reducing the public service cost of development.
 - K. To provide for enhancement and preservation of desirable vegetation and trees within the PUD.
 - L. To provide and protect solar access for the maximum number of structures.
- II. PUD Sub-District - Combining Suffix. A planned Unit Development may be developed or located in the Residential (R-1) District or the Community Commercial (CC) District, provided that a Planned Unit Development (PUD) suffix has been added to the parent district in accordance with the provisions and objectives of this Section. Such subdistricts shall be established by ordinance, pursuant to the provisions of Section 9-VIII-B herein, except the applicant need not comply with Section 9-VIII-B-2.
- IV. Permitted Uses. The following buildings and uses may be permitted, either singly or in combination in a Planned Unit Development (PUD) Sub-District. Except as specifically provided and/or referred to in this Section, the building and uses permitted in a Planned Unit Development (PUD) Sub-District shall be governed by the basic uses (purpose) of the parent district.

Planned Residential and Commercial Developments

- A. Single-family dwellings
- B. Two-family dwelling (duplex)
- C. Mobile homes, Modular home
- D. Townhouses
- E. All other uses permitted in the parent district
- F. conditional uses permitted in the parent district
- G. Open space
- H. Public and private nonprofit parks and playgrounds, community centers, and recreational facilities
- I. Hiking and riding trails
- J. Neighborhood shopping centers and convenience shops where they are deemed appropriate to a larger neighborhood of which the Planned Residential Development is an integral part and is designed to primarily serve the residents of the PUD with goods and services.
- K. Accessory structures and uses to the extent necessary and normal to the uses permitted in this Section.

V. Approval Criteria. In addition to the following development and maintenance standards and principles, the Planning Commission shall expressly find that the following criteria are met before it approves a Planned Unit Development:

- A. That the location, size, design, and uses are consistent with the Dunes City Comprehensive Plan.
- B. That the location, design and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding land uses, that the location and design will adequately reduce the impact of the development.
- C. That the location, design, size, and land use are such that traffic generated by the development can be accommodated safely and without congestion on existing or planned streets and will, in the case of commercial developments, avoid as much as possible traversing local streets.

- D. That the location, design, size, and land uses are such that the residents or establishments to be accommodated will be adequately served by existing facilities and services or by facilities and services which are planned for construction within a time period that is deemed reasonable.
- E. That the location, design, size, and uses will result in an attractive, healthful, efficient and stable environment for living, shopping or working.
- F. The Plan shall preserve the maximum number of evergreen trees and desirable natural plants (as defined in the erosion control ordinance), given the limits of the area to be developed.
- G. That the location, design, size, and uses will provide the maximum solar access to southfacing building walls and rooftops at noon on December 21st. Application of this standard shall include but not be limited to: the placement and orientation of structures; and the type and location of trees to be planted.

VI. Design Team. The talents of qualified professionals, working as a team, are required for the planning, development and construction of a Planned Unit Development to ensure that the objectives of this Section may be most fully realized and appreciated by the community and the project's enable to most expeditious processing of PUD's by facilitating coordination and communication between the developer, the various professionals, the public agencies and the planning commission. The composition of the Design Team shall include, but not be limited to , a qualified architect, landscape architect and an engineer or land surveyor, licensed by the State of Oregon.

One of the required professionals shall be designated by the applicant to be responsible for conferring with the planning commission with respect to the concept and details of the development plan, and shall act as the liaison between the planning commission and the Design Team. The selection of this coordinator shall not limit the applicant or any member of the team from consulting with or presenting material to the planning commission and city council.

The composition of the Design Team may be modified by the planning commission or the applicant in accordance with the following provisions:

- A. The planning commission may require that, in addition to the Design Team, the expertise of other professionals be utilized in the formation, planning and development of a Planned Unit Development if the planning commission makes a determination that the site merits special consideration due to its unusual and adverse physical features or conditions.

B. The applicant may limit, except as provided in A, above, the composition of the Design Team to an architect, or a landscape architect and an engineer or a land surveyor, if:

- (1) The proposed PUD is intended for single-family dwellings, or
- (2) The proposed PUD is intended as a commercial development.

VII. Minimum Sized Area for Developments. A planned Unit Development shall be of sufficient size to allow the objectives and standards of this section to be met and shall, as a minimum, comply with the following:

- A. The minimum size for a tract of land to be developed as a Planned Unit Development shall be not less than five (5) contiguous acres and of such configuration as to be conducive to a Planned Unit Development.
- B. Notwithstanding the provisions of A above, a Planned Unit Development application may be filed on a tract of land less than five (5) contiguous acres, but no approval shall be given to such application unless the Planning Commission determines, upon a showing by the applicant, that the minimum size required in A above should be waived because a Planned Unit Development is in the public interest and that one or more of the following conditions exist:
 - (1) Because of unusual physical features of the property or of the neighborhood in which it is located, a substantial deviation from the regulations otherwise applicable is necessary or appropriate in order to conserve a physical or topographical feature of importance to the City
 - (2) The property or its neighborhood has historical character of economic importance to the City that will be protected by use of a Planned Unit Development
 - (3) The property is adjacent to property which has been officially approved, developed or redeveloped as a Planned Unit Development, and that a Planned Unit Development on the subject property can be effectively integrated with the existing PUD
 - (4) The property is determined to be an isolated problem area that has been bypassed in the course of development and for which a Planned Unit Development is determined to be the most feasible method of developing said area.

VII. Land Coverage

- A. Planned Residential Developments: In Residential Development, at least 40 percent of the gross area shall be devoted to open space. Of this 40 percent, not more than 25 percent of said required open space may be utilized privately by individual owners or users of the Planned Unit Development; and at least 75 percent of this area shall be common or shared open space.
- B. Planned Residential and Commercial Developments: In Residential and Commercial Developments, the maximum allowable land coverage shall be the same as required by the parent zoning districts, or 60 percent of the gross area, whichever allows the lesser amount of land coverage.

IX. Residential Density

- A. The residential density shall be equivalent to not more than one family unit per acre.
- B. The overall density of a Planned Residential Development shall be calculated by dividing the total net development area by the number of family units. The net development area shall be determined by subtracting from the gross development area lands intended or used for:
1. Commercial purposes
 2. Churches or schools
 3. Public or semi-public uses not intended to primarily serve the residents of the PUD.

- X. Lot Area and Dimensional Standards. The minimum lot area, width, depth, height, and setback requirements of this ordinance applicable to the zoning district in which the Planned Unit Development Sub-district lies shall not dictate the strict guidelines for development within the Planned Unit Development, but shall serve as a guideline to ensure that the development will be in harmony with the character of the surrounding area. Individual buildings, accessory buildings, off-street common parking, loading facilities, open space, landscaping, and screening may be located without reference to lot lines, except the boundary lines of the Planned Unit Development.

- XI. Perimeter Standards. When the planning commission determines that topographical or other existing barriers, or the design of the Planned Unit Development, does not provide adequate screening or privacy necessary for properties adjacent to the Planned Unit Development, the planning commission shall require that:

- A. Structures located near the perimeter of a Planned Unit Development are designed and located so as to protect the privacy and amenity of adjacent existing uses.

- B. A permanent screening be established, either by appropriate structure or vegetation or both, along those portions of the site boundaries requiring such screening to assure compatibility with adjacent existing or prospective land uses.

XII. Open Space Standards. The location, shape, size, and character of the open space shall be provided in a manner to meet the specific needs of the Planned Unit Development and consistent with the standards set forth below, and shall be used only for those uses so specified:

- A. Open space may be used for scenic, landscaping, or outdoor recreational purposes. The uses designated for the open space shall be appropriate to the scale and character of the Planned Unit Development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.
- B. Open space shall be developed and improved to the extent that it will serve the purpose for which it is designated. Outdoor areas containing natural features and natural vegetation (as defined in the erosion control ordinance) may be left unimproved. Evergreen trees will be preserved whenever possible.
- C. Any building, structure, and improvements within the open space shall be appropriate to the uses which are authorized for the open space and shall conserve and enhance the amenities of the open space having regard to its topography and unimproved condition.
- D. The development schedule which is part of the Development Plan must coordinate the improvement of the open space and the construction of residential dwellings and other buildings in the Planned Unit Development.
- E. All structures, grading, landscaping and improvements indicated on the plan as being in the open space or common ground shall be completed before any portion of the PUD is sold.

XIII. Maintenance of Common Open Space and Facilities. Whenever any lands or facilities, including streets or ways, are shown on the final development plan as being held in common, the Planning Commission shall require that an association of owners or tenants be created into a nonprofit corporation under the laws of the State of Oregon and that such corporation shall adopt articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on such common areas and facilities to the satisfaction of the Planning Commission. Said association shall be formed and continued for the purpose of maintaining such common open space and facilities. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessment levies to maintain said areas and facilities for the purposes intended. The period of existence of

such association shall be not less than twenty(20) years, and it shall continue thereafter until a majority vote of the member shall terminate it.

XIV. Dedication. The Planning Commission may, as a condition of approval for any development, require that portions of the Planned Unit Development be set aside, improved, conveyed, or dedicated for the following uses:

- A. Easements necessary to the orderly extension of public utilities.
- B. Streets and pedestrian ways necessary to the proper development of either the Planned Unit Development and/or adjacent properties.
- C. Recreational areas or open spaces suitable for the owner, residents, employees, or patrons of the Planned Unit Development and the general public.

XV. Construction Standards. Except as expressly provided herein, the provisions of the Building Code, Subdivision Ordinance, and all other City ordinances and codes shall apply to and control all design and construction of improvements within a Planned Unit Development.

GENERAL APPLICATION CRITERIA

XVI. Application. Any applicant desiring to develop a Planned Unit Development shall submit an application in accordance with procedures provided for in this Section. Each application shall include all required plans, programs, and other material. Whenever a Planned Unit Development is subject to the Subdivision Ordinance, the procedures of the ordinance shall also be complied with except as modified in accordance with the provisions of this Section. Any such subdivision requirements shall be considered and acted upon concurrently with the Planned Unit Development.

XVII. Ownership. The tract or tracts of lands included in a proposed Planned Unit Development application must be in one ownership or control, or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase shall be deemed the owner of such land for the purposes of this section.

PRELIMINARY PLANNED UNIT DEVELOPMENT REQUIREMENTS AND ACTION

XVIII. Application. Applications for preliminary approval shall be made by the owner(s) of all property included in the Planned Unit Development or his authorized agent and shall be filed on a form prescribed by the City Council and filed with the City Recorder. The application shall also indicate all owners of record, contract purchasers, holders of options, and proposed developers. Preliminary Planned Unit Development applications shall be accompanied by the filing fee to defray the cost of processing

the application, and shall include the following:

- A. An application to establish a Planned Unit Development (PUD) subdistrict classification for the zoning district in which the proposed development will lie. The said application any include a request that the parent zone be changed.
- B. One (1) copy of a written statement made up of the following information:
 - (1) An explanation of the character of the Planned Unit Development, and the form of organization proposed to own and maintain the common areas and facilities, and the type of ownership of individual units or spaces
 - (2) Drafts of proposed covenants, deed restrictions, and other documents relating to the dedication, improvements, and maintenance of common and private areas or facilities
 - (3) A development schedule indicating:
 - (a) The approximate date when construction of the project can be expected to begin
 - (b) The proposed stages in which the project will be built and the approximate date when construction of each stage can be expected to begin
 - (c) The approximate dates when the development will be completed
 - (d) The area, uses, and location of common open space that will be provided at each stage.
 - (4) A tabulation of land area to be devoted to various uses and a calculation of the average residential density per net acre.
- C. Six (6) copies and one (1) reproducible transparency of a preliminary development plan(s) of the entire development and shall include, at a minimum, the following:
 - (1) Existing contours and proposed contours after development of intervals of:
 - (a) One (1) foot for ground slopes of less than five (5) percent or spot elevations and drainage features
 - (b) Two (2) feet for ground slopes between five (5) and ten (10) percent
 - (c) Five (5) feet for ground slopes in excess of ten (10) percent.

- (2) Approximate location, arrangement and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, bikeways, off-street parking, and loading areas.
- (3) Approximate location and dimensions of building and structures and their use, open space, and dedicated or reserved properties.
- (4) Preliminary landscaping plan depicting existing and proposed tree plantings, ground cover, screen planting and fences, etc., and showing location of existing trees in excess of 12 inches in diameter measured four (4) feet from ground level which are proposed to be removed by the development.
- (5) Architectural sketches or drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets, ways, parking spaces or garages, and open spaces.
- (6) Proposed drainage, water, and sanitary systems and facilities as required.
- (7) Location, character, and type of signs and lighting facilities.
- (8) A preliminary subdivision plat if the land or buildings is to be subdivided as defined by the Subdivision Ordinance.
- (9) A preliminary identification of lots which will possess solar access and trees which will shade lots.

XIX. Planning Commission Hearing on Preliminary Planned Unit Development Application

- A. The planning commission shall review the Preliminary Planned Unit Development application and the reports and recommendations thereon at a public hearing as provided for in this Section. If it appears from the evidence presented at the public hearing that the proposed Preliminary Planned Unit Development application conforms to the objectives, criteria, and standards of this Section, the planning commission shall approve the Preliminary Planned Unit Development application, or require such changes therein or impose such conditions of approval as are in its judgment necessary to ensure conformity to said objectives, criteria, and standards. The planning commission may, in its discretion, authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the

preliminary development plan and stage development schedule. In addition, the Planning Commission may continue such hearing as provided for in this Ordinance.

- B. If the Planning Commission finds that PUD does not meet the criteria of this Ordinance, it shall clearly and concisely set forth the reasons the application does not comply, citing the appropriate section of the zoning ordinance and recommending denial to the City Council. Applicant must, within 30 days, notify the City Recorder that (1) the applicant wishes the matter reviewed by the City Council and decided as submitted, or (2) Applicant will modify the application to the Planning Commission.
- C. Within five (5) days following consideration by the Planning commission of the zone change and accompanying preliminary development plan, the applicant shall be notified in writing by the City Recorder of the Commission's action.
- D. The City Recorder shall forward approved Preliminary Planned Unit Development applications to the City Council for public hearing.

XX. City Council Hearing on Preliminary Planned Unit Development Application

- A. Following receipt of an affirmative Planning Commission recommendation for the Preliminary Planned Unit Development Application, the City Council shall consider such Preliminary Planned Unit Development application at a public hearing. If it appears from the evidence presented that said application conforms to the objectives, criteria and standards of this Section, the City Council shall indicate its general approval in principle of the Preliminary Planned Unit Development application by the adoption of an "Order of Preliminary PUD Approval."
- B. The "Order of Preliminary PUD Approval" shall include all conditions, stipulations or limitations which the City Council may determine necessary to require in the public interest as a prerequisite to the approval of a Final Planned Unit Development application. Such conditions, stipulations or limitations shall be incorporated as part of the Preliminary Planned Unit Development application.
- C. The "Order of Preliminary PUD Approval" shall ensure to the applicant that, upon compliance with all requirements of the Final Planned Unit Development application, the City council shall, by ordinance, effect approval of said application.
- D. The failure of the applicant to meet any or all requirements for Final Planned Unit Development approval within one (1) year from date of approval of said resolution shall render the "Order of Preliminary PUD Approval" null and void, unless, prior to expiration of the one (1) year period, an

extension is granted by the City Council after receiving a recommendation from the Planning Commission.

- E. Upon approval of the "Order of Preliminary PUD Approval" the property so covered by the resolution shall be appropriately indicated on the zoning map. Following approval of a final Planned Unit Development application or the expiration of the Order of Preliminary PUD approval, the zoning map shall be modified accordingly.

FINAL PLANNED UNIT DEVELOPMENT REQUIREMENTS AND ACTION

- XXI. Application. Within one (1) year after the granting of "Order of Preliminary PUD Approval" the applicant shall file on a form prescribed by the city council and filed with City Recorder a "Final Planned Unit Development Application" for the entire development or, when submission in stages has been authorized, for the first stage of development. The "Final Planned Unit Development Application" shall conform in all major respects with the Preliminary Planned Unit Development application. Said application shall include the following:
 - A. Six (6) copies and a reproducible transparency of the final plan(s). This said plan shall be sufficiently detailed to indicate fully the ultimate operations and appearance of the development and shall include, at a minimum, the following:
 - (1) Detailed location of water, sewage, and drainage facilities.
 - (2) Detailed plan showing location of all buildings and structures.
 - (3) Detailed exterior building plans and elevations.
 - (4) Detailed plans showing the character and locations of signs and lighting facilities.
 - (5) Detailed plans for streets, roadways, pedestrian ways, and parking improvements.
 - (6) Detailed grading or earth moving plans.
 - (7) Detailed landscaping plans.
 - (8) Detailed solar access plan.
 - B. A final subdivision plat may be required by the Subdivision Ordinance.

- C. All documents relating to dedication, improvements, maintenance agreements, covenants, deed restrictions and bylaws of neighborhood associations, cooperatives, and improvements of the district. The documents so submitted shall be approved by an attorney and shall be further approved as to form by the City Attorney.
- D. Within five (5) days after a complete application for final approval is duly submitted to the City Recorder, the City Recorder shall distribute copies thereof to the Planning Commission and to such other agencies or individuals as they may deem appropriate.

XXII. Planning Commission Action on Final Development Application.

Within forty-five (45) days after receipt of the application for final approval, the Planning Commission shall consider the Final Planned Unit Development application along with any referrals received concerning said application. If it appears from the evidence presented that the said final application substantially conforms to the Preliminary Planned Unit Development Application, the conditions, stipulations, and limitations or changes required by the "Order of Preliminary PUD Approval," and all applicable laws and ordinances, the Planning Commission shall approve said application. If the Planning Commission determines that the said application does not comply with such provisions, it shall either:

- A. Require such changes in the Final Planned Unit Development application as are in its judgment necessary to ensure conformity to the Preliminary Planned Unit Development application, the conditions, stipulations, and limitations or changes required by the "Order of Preliminary PUD Approval," and all applicable laws and ordinances, and in so doing the applicant may revise the said final application and resubmit the said application to the Planning Commission within forty-five (45) days. The Revised Final Planned Unit Development application shall be heard at the next regular Planning Commission meeting.
- B. Disapprove the Final Planned Unit Development application and the said action of the Planning Commission shall become final in ten (10) days unless, within the ten (10) day period, the applicant appeals the Planning Commission's action to the City Council as provided in this Section.
- C. If the Planning Commission recommends approval of a Final Planned Unit Development application, the City Attorney shall draft an ordinance for a Planned Unit Development Sub-district and place thereon certification of Planning Commission action. The said certification shall also show the Final Planned Unit Development application. Before approval is so certified, the City Recorder shall determine that either:

- (1) All improvements as required by this Ordinance have been completed and a certificate of such fact has been filed with and approved by the Planning-Commission, or
- (2) A performance agreement has been filed with the City Recorder on a form approved by the City Council and in sufficient amount to ensure the completion of all required improvements.

XXIII. City Council Action on the Final Planned Unit Development. The Final Planned Unit Development Application and draft of the appropriate ordinance shall be forwarded to the City Council for their action following certification by the City Recorder of the Planning Commission's action. If the City Council determines that the said Ordinance and Planned Unit Development application are in conformity with the "Order of Preliminary PUD Approval," the said Ordinance and Development application shall be approved and signed.

FINAL PLANNED UNIT DEVELOPMENT CONDITIONS

XXIV. Limitation of Approval. No excavation, grading, construction improvements, or building permits shall be authorized or issued within the Adopted Planned Unit Development (PUD) Sub-district Zone, pending compliance with the following:

- A. Full compliance with all provisions of the ordinance, including the execution and filing of all documents required therein.
- B. Compliance with the requirements of Dunes City Zoning Ordinance, Building Code, Subdivision Ordinance, and all other applicable laws and regulations.
- C. Full compliance with the approved Final Planned Unit Development application. The said application shall control the issuance of all building permits and shall restrict the nature, location, and design of all uses.

XXV. Changes to Final Planned Unit Development Application. Minor changes in an approved Final Planned Unit Development application requested by the applicant may be approved by the Planning Commission if such changes are consistent with the purposes and general character of the application. All other modifications, including extension or revisions of the stage development schedule, shall be processed in the same manner as the original application or final approval and shall be subject to the same procedural requirements. All requests for changes or modifications and their approval shall be in writing.

XXVI. Revocation. In the event of a failure to comply with the approved Planned Unit Development application or any prescribed condition of approval, including failure to comply with the stage development schedule, the Planning Commission may initiate a review of the Planned Unit Development (PUD) Sub-district at a public hearing to determine whether or not its continuation in whole or in part is in the public interest, and if found not to be shall recommend to the City Council that the Planned Unit Development (PUD) Sub-District be removed, and necessary amendments to the Ordinance be made in accordance with this Ordinance.

SECTION 9: PROCEDURES AND CRITERIA FOR CONSIDERING ZONING, REZONING, CONDITIONAL USE PERMITS, TEMPORARY PERMITS; VARIANCE, SITE REVIEW PERMITS AND AMENDMENTS TO THIS ORDINANCE

I. Purpose. The purpose of this Section is to establish the process for implementing the Dunes City Comprehensive Plan through the establishment of procedures and criteria for considering proposals for Zoning, Rezoning, Conditional Use Permits, Temporary Permits, Variances, Site Review Permits and amendments to this Ordinance.

II. Initiation/Application

- A. By Planning Commission: The zoning of unzoned properties, the rezoning of properties, and amendment of this Ordinance may be initiated by the Planning Commission upon its own motion or upon petition of an interested person or persons, and shall be initiated by the Planning Commission upon request of the City Council as provided in (B) following.
- B. By City Council: The zoning of unzoned properties, the rezoning of properties, and the amendment of this Ordinance may be initiated by the City Council in the form of a request to the Planning Commission that it consider the proposed zoning, rezoning, or amendment.
- C. By Applicant: Application for the zoning or rezoning of properties and requests for Conditional Use Permits, Temporary Permits, Variances, and Site Review Permits shall be filed with the City Recorder on the form prescribed by the City Council by any person with a legal interest in the property at least thirty (30) days prior to the Planning Commission's public hearing, and shall include the following:
 - 1. Name and address of applicant
 - 2. Statement of the applicant's legal interest in the property (owner, contract purchaser, lessee, renter, etc.), a description of that interest, and, in case the applicant is not the owner, that the owner knows of the application
 - 3. Address and legal description of the property
 - 4. Statement explaining the intended request
 - 5. The fee required to defray the cost of processing the application
 - 6. Any other materials or information as may be deemed necessary by the applicant to assist in evaluation of the request.

III. Planning Commission's Public Hearing, and Notice Requirements

- A. Public Hearing Requirements: The Planning Commission shall hold not less than one public hearing on each proposed Zoning, Rezoning, Conditional Use Permit, Temporary Permit, Variance, Site Review and Amendment to this Ordinance.
- B. Notice Requirements:
1. For all proposed Zoning, Rezoning and Amendment to this Ordinance. Notice for each proposed Zoning, Rezoning, and Amendment to this Ordinance shall be given at least ten (10) days in advance of the Planning Commission Public Hearing by publication in a newspaper of general circulation in Western Lane County.
 2. For proposed Zoning, Rezoning, Conditional Use Permits, and Temporary Permits by an applicant. In addition to the general notice requirements of Subsection III.B.1. above, notice for Zoning, Rezoning, Conditional Use Permits and Temporary Permits proposed by an applicant shall also be given at least ten (10) days in advance of the Planning Commission Public Hearing by mail to the applicant, property owner (if not the applicant) and owners of all property within three hundred (300) feet of the exterior boundaries of the contiguous property ownership involved.
 3. For Variances and Site Review Permits. Notice of proposed Variances and Site Review Permits shall be given at least ten (10) days in advance of the Planning Commission's Public Hearing to the applicant, property owner (if not the applicant) and all owners of property abutting the exterior boundaries of the contiguous property ownership involved.

IV. Planning Commission Review and Recommendation

- A. The Planning Commission shall review the proposed Zoning, Rezoning, Conditional Use Permit, Temporary Permit, Variance, Site Review Permit and Amendment to this Ordinance and shall receive pertinent evidence and testimony as to why or how the proposed request is consistent with the criteria provided in this Section for evaluating requests for Zoning, Rezoning, Conditional Use Permits, Temporary Permits, Variance, Site Review Permits, and Amendments to this Ordinance as the case may be. The Commission shall determine whether the testimony at the hearing supports a showing of adherence to the required criteria and shall recommend to the city council accordingly that the application be granted or denied or that the proposal be adopted or rejected. Recommendation for denial or rejection shall be final unless appealed to the city council within ten (10) days from the date of the commission's action.

- B. An application which is not acted upon by the planning commission within forty (40) days from receipt or application by the city recorder may be deemed denied and may be appealed to the city council in the manner as provided for appeals of planning commission negative recommendations.

V. Action by City Council

- A. Affirmative or Negative Planning Commission Recommendation. Upon receipt of an affirmative or negative planning commission recommendation, the city recorder shall schedule a public hearing before the city council, as provided in VI below.
- B. Negative Planning Commission recommendation--Appeal Procedure. In the event of a negative planning commission recommendation, no action shall be taken by the city council unless that matter is appealed to the city council by any interested person or City official. Such appeal shall be filed in written form with the city recorder within ten (10) days of the date of the planning commission action, stating how the planning commission erred in its application of the requirements of this ordinance.

VI. Public Hearing by the City Council

- A. Within forty (40) days of an affirmative planning commission recommendation or the filing of an appeal as provided in this Section, the city council shall hold a public hearing. Such hearing and action by the city council shall be in accord with the provisions of this Section for planning commission hearings. Prior to the hearing the city recorder shall forward to the city council a copy of the application, all pertinent data filed with it and the minutes of the planning commission public hearing of the matter, if applicable.
- B. Prior to taking any action which would alter or modify a planning commission recommendation, the city council may first refer the proposed alteration or modification to the planning commission for a recommendation. Failure of the commission to report within forty (40) days after the referral or such longer period as may be designated by the city council, shall be deemed to be approval of the proposed alteration or modification. It shall not be necessary for the commission to hold a public hearing on the proposed alteration or modification.
- C. In reversing a recommendation of the planning commission, the city council shall indicate by order the basis for its decision.

VII. (This subsection was deleted by Ordinance 101)

VIII. Criteria and Requirements for Approval of Zoning, Rezoning, and Amendments to this Ordinance

A. Purpose

The zoning and rezoning of land and amendments to this Ordinance are the principle means of achieving the goals of Dunes City Comprehensive Plan. Therefore, over a period of time, changes in zoning, as well as changes to this Ordinance, will be necessary.

B. Criteria

Zoning, Rezoning and Amendments to this Ordinance shall be approved only when substantive and probative evidence establishing specific findings of fact have been made that said zoning, rezoning and amendments to this Ordinance conform to all of the following criteria:

1. The proposed change conforms to, or is not inconsistent with, the Dunes City Comprehensive Plan.
2. It has been demonstrated that there is a public need for the change, and that need is best achieved by this proposal.
3. The proposal is consistent with the purpose and intent of the district classification proposed.

C. Application, Hearing, Notice and Appeal

Procedures for application, hearing, notice and appeal shall be as provided in this Section for Zoning, Rezoning, and Amendments to this Ordinance.

IX. Criteria and Requirements for Approval of Conditional Use Permits

A. Purpose

Certain types of uses require special consideration prior to their being permitted in a particular district. The reasons for requiring such special consideration include, among others, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the uses, and the effect such uses have on any adjoining land uses and on the growth and development of the City as a whole. All uses permitted conditionally possess unique and special characteristics making impractical their inclusion as outright uses in many of the various districts herein defined. Locations and operation of designated conditional uses shall be subject to review and authorized only by issuance of a Conditional Use Permit. The purpose of review shall be to determine that the characteristics of any such use shall not be unreasonably incompatible with the type of uses permitted in surrounding

areas, and for the further purpose of establishing such conditions as may be reasonable so that the basic purposes of this Ordinance shall be served.

B. Conditional Uses

Where ambiguity exists concerning the appropriate classification or procedure for the establishment of a particular use or type of development, that use or development may be established by a Conditional Use Permit in accordance with the provisions of this Section.

C. Criteria

A Conditional Use Permit may be granted only if substantive and probative evidence establishing specific findings of fact have been made that said Conditional Use conforms to all of the following criteria:

1. Conformity with the Dunes City Comprehensive Plan.
2. Compliance with special conditions established by the Planning Commission to carry out the purposes of the section.

D. Conditions. The Planning Commission may impose the following conditions to minimize conflict between proposed and existing uses:

1. Modify yard setbacks, coverage, and height to accomplish specified ends;
2. Screen unsightly development such as trash receptacles, mechanical apparatus, storage areas, or windowless walls;
3. Require walls, fences, hedges, screen planting to accomplish specified ends;
4. Require planting of ground cover or other surfacing to prevent erosion or reduce dust;
5. Retain trees or other natural features for buffers, windbreaks, wildlife and fisheries habitat, livestock habitat, scenic corridors or recreational use;
6. Require adequate off-street parking and loading-unloading facilities;
7. Modify access provisions for safety reasons;
8. Modify sign requirements to meet specified ends;
9. Require landscaping and lighting plans to accomplish specified ends;

10. Require on-going maintenance of buildings and grounds;
11. Require adequate additional right-of-way and road improvements to promote traffic safety;
12. Require abatement of noise, vibration, odors;
13. Require time limitation for certain activities;
14. Require a time period within which the proposed use shall be developed;
15. Require a limit on total duration of use;
16. Additional conditions which may be necessary to implement policies of the Dunes City Comprehensive Plan.

E. Application, Hearing Notice and Appeal.

Procedure for application, hearing notice and appeal shall be as provided in this Section for Conditional Use Permits.

F. Compliance with Conditions of Approval

Compliance with conditions imposed in the conditional Use Permit and adherence to the plot plan submitted as approved are required. Any departure from these conditions of approval and approved plans constitutes a violation of this Ordinance.

G. Vested Interest in Approved Conditional Use

A valid conditional Use Permit supersedes conflicting provisions of subsequent rezoning or amendments of this Ordinance, unless specifically provided otherwise by the provisions of this Section or the conditions of the approval of the Conditional Use Permit.

H. Revocation

1. Conditional Use Permits are automatically revoked without special action if:
 - (a) The Permit has not been exercised within two years of the date of approval; or
 - (b) The use approved by the Conditional Use Permit is discontinued for any reason for one continuous year or more.
2. The city council may revoke any Conditional Use Permit for failure to comply with any prescribed condition of the Conditional Use approval.

3. A hearing for revocation of a Conditional Use Permit may be requested of the planning commission by the city council when the city council is of the opinion any or all of the bases for revocation as stated in this Section exist. Request for a revocation hearing shall be accomplished by submitting a letter to the planning commission stating the basis for requesting the hearing for the revocation. The planning commission shall then set a hearing for the revocation if they determine a hearing is warranted.
4. The public hearing notification and appeal procedures for revocation hearings by the planning commission and city council shall be the same as those for original Conditional Use application hearings and appeals provided in this Section.

I. Limitations on Re-filing of Application

An application which is substantially similar to an application which has been withdrawn by the applicant or has been denied or revoked shall not be re-filed within 12 (twelve) months of the date of withdrawal, revocation or denial unless the city council determines there is good and sufficient cause to allow a refiling.

J. Multifamily Standards

When considering a conditional use for multifamily housing, conditions shall not be placed which would exclude needed housing, unnecessarily decrease density, nor allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delays.

In permitting a conditional use or the modification of an existing conditional use that involves a housing type (two-, three-, and four-family dwellings), the planning commission may impose standards and requirements expressly specified for that use, other conditions which it considers necessary to protect the best interests of surrounding property or the City as a whole. These conditions include the following:

1. Require diking, fencing, screening, landscaping, berms or other items to protect adjacent or nearby areas.
2. Require two acres for two-family dwellings, three acres for three-family dwellings, and four acres for four-family dwellings.
3. Require adequate off-street parking and loading/unloading facilities.

X. Criteria Requirements for Approval of Temporary Permits

A. Purpose

The purpose of the Temporary Permit procedure is to allow on an interim basis:

1. Temporary uses in undeveloped areas of the City not otherwise allowable in the applicable zoning district.
2. Use of existing structures designed and intended for a use not allowable in a zoning district and not otherwise a nonconforming use.
3. Erection of temporary structures for activities necessary for the general welfare of an area, provided such uses and activities are consistent with the intention of this Ordinance.

No Temporary Permit can be granted which would have the effect of permanently rezoning and granting a special privilege not shared by other property in the same district.

B. Allowable Temporary Uses, Criteria, and Limitations

1. The following are allowable temporary uses and may be permitted in any zoning district, if substantive and probative evidence establishing specific findings of fact have been made that said Temporary Permit conforms to the following criteria:
 - (a) A different use for existing structures or structures and premises in combination which are occupied or have been occupied by a nonconforming use provided it is determined by the City Council that the character and nature of the proposed use will be less incompatible to the surrounding vicinity than the existing or previous nonconforming uses.
 - (b) Use of existing structures and premises which are designed and intended for a use which is not allowable in the applicable zoning district and new structures and premises and use thereof necessary for the physical and economic welfare of an area, provided it is determined by the City Council that the location, size, design, and operating characteristics of the proposed use and new structure, if applicable:
 - (1) Will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity.

- (2) Will not be adversely affected by the development of abutting properties and the surrounding vicinity.
- (c) Open land uses which do not involve structures with a combined value in excess of \$1,000, provided it is determined by the City Council that the location, size, design, and operating characteristics of the proposed use:
 - (1) Will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity.
 - (2) Will not be adversely affected by the development of abutting properties and the surrounding vicinity.
- 2. In applying the criteria for allowable temporary uses provided in subsections (b) and (c) above, consideration may be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets and roads; and to any other relevant impact of the use.
- 3. No structural alterations may be made to a non-conforming structure to be utilized by a temporary use which would materially prolong the economic life of the structure.
- 4. Where new structures and use thereof and new open land uses are permitted, the premises shall be required to be restored to the prior state within three months of the termination of the permit. A performance bond shall be required, if determined necessary by the City Council, at the time of approval in sufficient amount to cover the estimated cost of such restoration.
- 5. Temporary permits for any one permit shall be approved for a maximum of five years.

C. Conditions

Reasonable conditions may be imposed in connection with the Temporary Permit as necessary to meet the purposes of this Section. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include, but are not limited to, requiring:

1. Special yards and spaces.
2. Fences and walls.

3. Control of points of vehicular ingress and egress.
4. Special provisions on signs.
5. Landscaping and maintenance thereof.
6. Maintenance of the grounds.
7. Control of noise, vibration, odors, or other similar nuisances.
8. Limitation of time for certain activities.
9. A time period within which the proposed use shall be developed.
10. A limit on total duration of use.

D. Application, Hearing, Notice and Appeal

Procedures for application, hearing, notice and appeal shall be as provided in this Section for Temporary Permits.

E. Compliance with Conditions of Approval

Compliance with conditions imposed in the Temporary Permit and adherence to the plot plans submitted as approved are required. Any departure from these conditions of approval and approved plans constitutes a violation of this Ordinance.

F. Vested Interest in Approved Temporary Permits

A valid Temporary Permit supersedes conflicting provisions of subsequent rezoning or amendments to this Ordinance unless specifically provided otherwise by the provisions of this Section or the conditions of the approval of the Temporary Permit.

G. Revocation

1. Temporary Permits are automatically revoked without special action if:
 - a. The permit has not been exercised within one year of the date of approval.
 - b. The use approved by the Temporary Permit is discontinued for any reason for one continuous year or more.
2. The City Council may revoke any Temporary Permit for failure to comply with any prescribed condition of the Temporary Permit approval.

3. A hearing for revocation of a Temporary Permit may be requested of the Planning Commission by the City Council when the City Council is of the opinion any or all of the bases for revocating as stated in this Section exist. Request for a revocation hearing shall be accomplished by submitting a letter to the Planning Commission stating the basis for requesting the hearing for the revocation. The Planning Commission shall then set a hearing for the revocation if they determine a hearing is warranted.
4. The public hearing notification and appeal procedures for revocation hearings by the Planning Commission and City Council shall be the same as those for original Temporary Permit application, hearings, and appeals provided in this Section.

H. Limitations of Re-filing of Application

An application which is substantially similar to an application which has been withdrawn by the applicant or has been denied or revoked shall not be re-filed within 12 (twelve) months of the date of withdrawal, revocation or denial unless the city council determines there is good and sufficient cause to allow a re-filing.

XI. Criteria Requirement for Approval of Variances

A. Purpose

The purpose of a Variance is to provide relief when a strict application of the zoning requirements impose unusual practical difficulties, or unnecessary physical hardships may result from the size, shape or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity or from population densities, street location or traffic conditions in the immediate vicinity.

The power to grant Variances does not extend to use regulations. In other words, no Variance can be granted which would have the effect of rezoning and granting a special privilege not shared by other property in the same district.

B. Criteria

1. Variances to a requirement of this Ordinance with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if substantive and probative evidence establishing specific findings of fact have been made that said variance conforms to the following criteria:

- a. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of this Ordinance.
- b. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zoning district.
- c. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges legally enjoyed by the owners of other properties classified in the same zoning district.
- d. That the granting of the Variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties of improvements in the near vicinity.

Variances in accordance with this subsection should not ordinarily be granted if the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner or previous owner.

- 2. Variances to requirements of this Ordinance with respect to off-street parking and loading facilities may be authorized as applied for or as modified, if, on the basis of the application, investigation, and the evidence submitted, the following express written findings, in addition to those prescribed in the criteria above, are made:

- (a) That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this Ordinance.
- (b) That the granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets.
- (c) That the granting of the Variance will not create a safety hazard or any other condition inconsistent with the general purpose of this Ordinance.

- C. Effect of Substantially Identical Variances and Modification to other City Ordinances.

1. A Variance granted a by authority of this Section eliminates the necessity of obtaining approval of a substantially identical or less extensive Variance or modification to the building Code and Subdivision Ordinance, respectively, and constitutes a Variance or modification of those ordinances as applicable.
2. A Variance shall not be required to the area, width, depth, frontage, or setback requirements of this Ordinance for any subdivision area developed as a unit and receiving final approval in accordance with the provisions of Subdivision Ordinance when the requirements to be varied are specifically incorporated within the finally approved subdivision plat.

D. Conditions

Reasonable conditions may be imposed in connection with a Variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this Section. Guarantees and evidence may be required that such conditions will be and are being complied with.

E. Application, Hearing, Notice and Appeals

Procedures for application, hearing, notice, and appeal shall be provided in this Section for Variances.

F. Compliance with Conditions of Approval

Compliance with conditions imposed in the Variance, and adherence to the submitted plans as approved is required. Any departure from these conditions of approval and approved plans constitutes a violation of this Ordinance.

G. Vested Interest in Approved Variances

A valid Variance supersedes conflicting provisions of subsequent rezonings or amendments to this Ordinance unless specifically provided otherwise by the provisions of this Section or the conditions of approval to the Variance.

H. Revocation

Variances shall automatically be revoked if not exercised within one year of the date of approval. Further, variances may be revoked if the City Council determines:

1. There is probable cause to conclude that the conditions of the variance have not been met.

2. The City Council serves notice upon the owner of record of the property by certified mail, return receipt requested, that he is directed to appear and show cause why the variance should not be revoked.
3. Said notice provides a time, place and date of said hearing.
4. Said hearing is in fact conducted, and the City Council finds by preponderance of the evidence that the conditions of the Variance have in fact been violated.

I. Limitations on Re-filing of Application

An application which is substantially similar to an application which has been withdrawn by the applicant or has been denied or revoked shall not be re-filed within 12 (twelve) month of the date of withdrawal, revocation or denial unless the city council determines there is good and sufficient cause to allow a refiling.

XII. Requirements for Approval of Site Review Permits

A. Purpose

It is the purpose of this Section to establish a Site Review Permit procedure for specified uses or applications requiring comprehensive review of proposed site development in order to maintain or improve the character and attractiveness of the general area, to encourage the most appropriate development of the site compatible with the neighborhood, to prevent undue traffic and pedestrian hazards or congestion, to reduce adverse impacts upon public facilities and services, and to provide a healthful, stable, efficient and pleasant on-site environment.

B. Site Review Permits Required

To accomplish the purpose of this Section, a Site Review Permit shall be required when:

1. Commercial, mobile home or travel trailer parks, or other nonresidential uses or structures are proposed for a property within 100 feet of a Residential (R-1) District boundary or residentially developed property.
2. Incidental to any zoning or rezoning application approval when it is determined by the City Council that a Site Review Permit would be necessary to ensure that such approval would be consistent with the intent and purposes of this Ordinance.
3. Incidental to an expansion of a nonconforming use of land and structures as permitted in this Chapter.

4. A district in this Chapter specifically requires a Site Review Permit for uses permitted outright or conditionally in said district.

Any properties requiring a Site Review Permit pursuant to (2) above shall be designated "SR" in the amending ordinance, on a map attached as an exhibit to the ordinance, and on the official zoning map, as applicable.

No building permit shall be issued until a Site Review Permit has been obtained as required by this Section. Further, said building permit can be issued only for development as approved according to the site review procedures herein specified.

C. Criteria for Site Review Evaluation

The Planning commission and City Council shall consider the following minimum criteria as applicable in evaluating site review applications, to ensure that the purpose and requirements of this section are met:

1. That the location, design, size, shape and arrangement of the uses and structures are in scale and are compatible with the surroundings.
2. That there is a desirable, efficient, and workable inter-relationship among buildings, parking, circulation, open space, landscaping, and related activities and uses, resulting in an attractive, healthful and pleasant environment for living, shopping or working.
3. That there is no unnecessary destruction of existing healthy trees or other major vegetation, and that due consideration is given to the preservation of distinctive historical or natural features.
4. That the quantity, location, height, and materials of walls, fences, hedges, screen planting and landscape areas are such that they serve their intended purpose and have no undue adverse effect on existing or contemplated abutting land use.
5. That suitable planting of ground cover or other surfacing is provided to prevent erosion and reduce dust.
6. That the location, design and size of the uses are such that the residents or establishments to be accommodated will be adequately served by community facilities and service or by other facilities suitable for the intended uses, in conformity with the Dunes City Comprehensive Plan.

7. That, based upon anticipated traffic generation, adequate additional right-of-way and road improvements must be provided by the development in order to promote traffic safety and reduce traffic congestion. Consideration shall be given to the need and feasibility of widening and improving abutting streets and also to the necessity for such additional requirements as lighting, sidewalks, and turn and deceleration/acceleration lanes.
8. That there is a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular and pedestrian entrances, exits, drives, walkways, buildings, and other related facilities.
9. That there are adequate off-street parking and loading/unloading facilities provided in a safe, efficient and pleasant manner. consideration shall include the layout of the parking and loading/unloading facilities and their surfacing, lighting and landscaping.
10. That the location, quantity, height and shape of areas or structures which define interior circulation and parking arrangements are suitable for their intended purpose.
11. That all signs and illumination are in scale, and harmonious with the site and area.
12. That adequate methods are provided to ensure continued maintenance and necessary normal replacement of common facilities, uses, structures, landscaping, screening, ground cover, and similar items required to ensure compatibility with the surrounding areas and an attractive, healthful and pleasant environment within the development area.
13. That the location, design and size of the uses do not violate the solar setback requirements.

D. Conditions

Reasonable conditions may be established by the Planning Commission and City Council in connection with a Site Review Permit as deemed necessary to secure the purpose and requirements of this Section. Guarantees and evidence may be required that such conditions will be or are being complied with.

E. Application for Site Review Permit

Application for a Site Review Permit shall be on a form prescribed by the City Council and submitted to that office by any person(s) with a legal interest in the property. The application shall include the following:

1. Name and address of applicant.
2. Statement of the applicant's legal interest in the property (owner, contract purchaser, lessee, renter, etc.) and a description of that interest, and, in case the applicant is not the owner, verification and legal description of the property.
3. Address and legal description of the property.
4. Statement explaining the intended request.
5. The fee required to defray the cost of processing the application.
6. Any other materials or information as may be deemed necessary by the applicant to assist in evaluation of the request.
7. Six copies of drawings clearly showing the following, when appropriate:
 - (a) Parcel location, boundaries, dimensions and total area.
 - (b) Approximate location, arrangement and dimensions of buildings and structures, and their use.
 - (c) Approximate locations, heights, materials and finishes of existing and proposed enclosures, walls and fences.
 - (d) Approximate location, dimensions, uses and screening provisions for storage, refuse and service areas.
 - (e) Approximate location, arrangement and dimensions of streets, driveways, access point, trails, bikeways, off-street parking and loading areas.
 - (f) Proposed drainage, water and sanitary systems and facilities.
 - (g) Approximate location, character and type of signs and lighting facilities.

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- (h) General landscaping plan depicting existing and proposed tree plantings, ground cover, screen planting, etc.
 - (i) Architectural sketches or drawings, if required, to clearly establish the scale, character and relationship of buildings, streets, ways, parking spaces, garages, and open spaces.
 - (j) Other data such as information on soils, geology, and hydrology, purpose and provisions of the Site Review.

Application may be made concurrent with a zone change, when applicable, or at a later date prior to the approval of a building permit for construction on the development site.

F. Application, Hearing, Notice and Appeal

Procedures for application, hearing, notice and appeal shall be as provided in this Section for Site Review Permits.

G. Modifications of Approved Site Review Permits

Minor changes requested by the applicant in an approved Site Review Permit may be approved by the Planning commission if such changes are consistent with the purposes and general character of the original application. All other modifications shall be processed in the same manner as the original application, and shall be subject to the same procedural requirements. All requests for changes or modifications, and their approval, shall be in writing.

H. Compliance with Conditions of Approval

Compliance with conditions imposed in the Site Review Permit, and adherence to the plans submitted upon which approval of the Site Review Permit was granted or modified, as the case may be, is required, and any departure from such conditions of approval and plans constitutes a violation of this Ordinance.

I. Revocation

Site Review Permit shall automatically be revoked if any development for which a Site Review Permit has been granted is not established within one year from the date of final approval.

SECTION 10: NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES

- I. Purpose. Within the districts established by this ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

It is the intent of this Ordinance to permit these non-conformities to continue until they are removed or abandoned, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building, structure or use for which a building permit in accordance with the Dunes City Building Code has been legally issued prior to the effective date of adoption or amendment of this Ordinance, except that applications for extension of a building permit shall not be approved to exceed a time of one year from the date of the adoption or amendment.

- II. Nonconforming Lots of Records. In any district in which single-family dwellings are allowed by permitted or conditional use, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record otherwise conforming to the requirements of all applicable city ordinances effective at the date the lot was platted. A single lot of record shall be either any tract of land existing as a unit, or contiguous units of land under single ownership, or any lot or parcel in an approved subdivision or partition. This provision shall apply even though such lot fails to meet the requirements for area or width, or both. Other requirements not involving area or width or both shall conform to the regulations for the district in which such lot is located.

- III. Nonconforming Uses of Land (or Land with Minor Structures). Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, and where such use involves no individual structure with a replacement cost exceeding \$1,000, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming use shall be enlarged or increased, extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. If any such non-conforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which land is located.
- D. No additional structure not conforming to the requirement of this Ordinance shall be erected in connection with such non-conforming use of land.
- E. Additional structures for fencing, or otherwise visually improving a non-conforming use of land which will not extend the size, area, or operation of the non-conforming use of land and will not materially prolong its economic life, may be permitted subject to approval of a Site Review Permit as provided in Section 9 (XII).

IV. Non-conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance as adopted or later amended by reason of restrictions on lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No structure may be enlarged or altered in a way which increases its non-conformity except as provided below.
- B. Should such structure be destroyed by any means to an extent of more than 75 percent of its replacement cost at time of destruction, it shall not be reconstructed, except in conformity with the provisions, of this Ordinance.
- C. Any additions to a non-conforming structure will require the permission of the council through the variance procedure.

V. Non-conforming Uses of Structure or of Structures and Premises in Combination. Of a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted in this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except as allowed in this section and except a structure may be moved out of an existing or proposed street right-of-way to another portion of the parcel or lot upon which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use in the same manner and procedure provided for Temporary Use Permits in Section 9 (X) if it is determined the character and nature of the proposed use will contribute to less incompatibility between the existing nonconforming structure, or structure and premises, and the uses and structures existing in the surrounding vicinity.
- D. Remodeling, additions or enlargements of existing single-family dwellings, duplexes, churches and schools may be made if otherwise conforming to the requirements in effect for the district in which located pertaining to height, setback, coverage, and vision clearance.
- E. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the use regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- F. Additional structures for fencing, covering, or visually improving a nonconforming use of a structure, or structure and premises in combination, which will not extend the size, area, or operation of the nonconformity and will not materially prolong its economic life may be permitted subject to approval of a Site Review Permit as provided in Section 9 (XII).
- G. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for one continuous year, the structure, or structure and premises in combination, shall not thereafter be used, except in conformance with the regulations of the district in which it is located.

H. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall establish the nonconforming use of land only. Destruction for the purpose of this provision is defined as damage to an extent of more than 75 percent of the assessed true cash value of the building at the time of destruction.

I. Notwithstanding the provisions of this or other sections of this Ordinance, a single-family dwelling, mobile home, or duplex, which constitutes a nonconforming use may be replaced if:

1. The single-family dwelling, mobile home, or duplex constitutes the residence of the owner or operator of the premises and has been removed because it is no longer fit for human habitation. The owner or operator of the premises must have occupied the single-family dwelling, mobile home or duplex within one year of the date of removal. The necessary permits must be obtained and substantial construction begun within two years of the date of removal.
2. The single-family dwelling, mobile home or duplex, which constitutes the residence of the owner or operator of the premises has been destroyed. The necessary permits must be obtained and substantial construction begun within two years of the date of the deconstruction.
3. Nothing in the provisions of sections one and two above is to be construed as allowing the replacement of additional or other single-family dwelling, mobile home or duplex which may be located on the same parcel of land as the residence of the owner or operator.

VI. Repairs and maintenance:

- A. On any nonconforming structure or structure devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing, to an extent not exceeding an accumulative total of 75 percent of the assessed true cash value of the building at the time said structure became nonconforming, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased.
- B. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

VII. Uses Under Conditional Use or Temporary Permit Provisions Not Nonconforming Uses. Any use for which a Conditional Use or Temporary Permit has been granted as provided in this Ordinance and remains valid shall not be deemed a nonconforming use.

VIII. Public Land. Unzoned public land notwithstanding, subsequent zoning may be used for the purposes intended when the land was acquired, notwithstanding the use provisions of the district in which the land is situated.

SECTION 11: DEFINITIONS

For the purpose of this Ordinance only, the following words, terms and phrases are defined as follows and supersede definitions otherwise provided in this code:

ACCESSORY BUILDING - Any subordinate building or portion of a main building, the use of which is incidental, appropriate and subordinate to that of the main building.

ACCESSORY USE - A use incidental, appropriate and subordinate to the main use of a lot or building.

ALTER - To change any of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

AGRICULTURE - The tilling of the soil, the raising of crops, horticulture, small livestock farming, dairying and/or animal husbandry and raising of Christmas trees.

AUTO WRECKING YARD (JUNK YARDS) - Premises used for the storage or sale of used automobile parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, machinery or parts thereof.

BASEMENT - A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half (1/2) of its height is above the average level of the adjoining ground.

BUILDING - The terms "building" and "structure" shall be synonymous, and shall mean that which is framed, erected, constructed, or placed to stand temporarily or permanently on a parcel of land. This definition shall specifically include, for the purpose of this Ordinance, a mobile home and accessories thereto. Driveways or walks not more than six inches higher than the ground on which they rest shall not be considered buildings.

BUILDING HEIGHT - The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

BUILDING - MAIN - A building within which is conducted the principal use permitted on the lot, as provided by this chapter.

BUILDING SITE - The ground area of a building or buildings, together with all open spaces required by this Ordinance, and which site has its principal frontage upon a public or private street.

CITY - The City of Dunes City, Oregon.

CAMPGROUNDS - Any lot, tract or parcel of land under the same ownership where two or more campsites are located which provide facilities for living in any manner other than in a permanent building constructed of wood, etc.

CARPORT - A stationary structure consisting of a roof with its supports and no more than one wall, or storage cabinet substituting for a wall, used for sheltering a motor vehicle.

CEMETERY - Land used or intended to be used for the burial of the dead, and dedicated for cemetery purposes; including columbaria, crematoria, mausolea, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

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

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

CLUB - Any organization, group or association supported by the members thereof, the purpose of which is to render a service customarily rendered for members and their guests; this shall not include any organization, group or association of which the chief activity is to render a service customarily carried on as a business.

COMMUNITY SEWERAGE FACILITY - A sewerage facility, whether publicly or privately owned, which serves more than a single- or two-family residence, dwelling or mobile home for the purpose of supplying water for drinking, culinary or household uses.

DAY NURSERY - KINDERGARTEN - Any institution, establishment or place in which are commonly received at one time six or more children not of common parentage, under the age of six years, for a period or periods not exceeding twelve hours, for the purpose of being given board, care or training apart from their parents or guardians for compensation or reward.

DISTRICT - A portion of the incorporated territory of Dunes City within which certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited, or within which certain yards or other open spaces are required, or within which certain lot areas are established, or within which certain height limitations are required for buildings, or within which certain off-street parking space is required or within which a combination of such regulations are applied as set forth in this Ordinance.

DWELLING - A building or portion thereof which is occupied in whole or in part as a residence or sleeping place, either permanently or temporarily by one or more families, but excluding hotels, motels, mobile homes, camping vehicles and travel trailers.

DWELLING, SINGLE-FAMILY - A detached dwelling designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family.

DWELLING, TWO-FAMILY (DUPLEX) - A building consisting of two separate dwelling units with a common roof and common foundation, designed and used exclusively for the occupancy of two families living independently of each other, and having housekeeping facilities for each family.

FAMILY

1. An individual, or group of two or more persons related by blood, marriage or legal adoption, and not more than three (3) other persons unrelated to said group, living together as a single household unit; provided, however, that if all of those unrelated to said group are foster children, the number allowable within the definition of the term "Family" are as follows:
 - a. Three (3), when there are three or more related children under age 18 living in the household;
 - b. Four (4), when there are two related children under 18 living in the household;
 - c. Five (5), when there is only one related child under age 18 living in the household;
 - d. Six (6), when there are no related children under 18 living in the household, or
2. A group of not more than five (5) persons who need not be related by blood, marriage, or legal adoption, living together as a single nonprofit housekeeping unit.

GARAGE - PRIVATE - An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

GRADE - The average of the finished ground levels at the center of all walls of the building. In case a wall is parallel to and within five feet of a side walk, the ground level shall be measured at the side-walk.

GROSS FLOOR AREA - Shall mean the floor area of a building, except areas used exclusively for the service of the building, such as:

- a. Mechanical equipment space and shafts
- b. Elevators
- c. Stairways, escalators, and ramps
- d. Public restrooms, loading docks or ramps

GROUP CARE HOME - Any home or private institution maintained and operated for the care, boarding, housing and training of four or more physically, mentally or socially handicapped persons, or delinquent or dependent person, by any person who is not the parent or guardian of and who is not related by blood, marriage or legal adoption to such persons.

GUEST HOUSE, SERVANTS' QUARTERS - An accessory building without kitchen or cooking facilities and occupied solely by nonpaying guests, or by servants employed on the premises.

HOME OCCUPATIONS - Any occupation or profession carried on by a member of the family residing on the premises.

HOSPITALS - Institutions devoted primarily to the rendering of healing, curing and nursing care, which maintain and operate facilities for the diagnosis, treatment and care of two or more non-related individuals suffering from illness, injury or deformity, or where obstetrical or other healing, curing and nursing care is rendered over a period exceeding twenty-four hours.

INDIVIDUAL SEWAGE FACILITY - A privately owned sewage facility which serves a single- or two-family residence, dwelling or mobile home for the purpose of disposal of domestic waste products.

INDIVIDUAL WATER SYSTEM - A privately owned water supply system which serves a single- or two-family residence, dwelling or mobile home for the purpose of supplying water for drinking, culinary or household use.

KENNEL - Any lot on which three or more dogs over the age of four months are kept.

KITCHEN - Any room, all or any part of which is designated, built, equipped, used or intended to be used for the preparation of food and/or the washing of dishes.

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

LOT - A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide yards and other open spaces as herein required. Such lot shall have frontage on a public street, and may consist of:

- a. A single lot of record
- b. A portion of a lot of record
- c. A combination of complete lots of record, or complete lots of records and portions of lots of record
- d. A parcel of land described by metes and bounds; provided, that in case of division or combination there shall have an approval given to said division or combination by the City Council under the conditions set forth in the Subdivision Ordinance.

LOT AREA - The total area measured on a horizontal plane within the lot lines of a lot.

LOT CORNER - Either a lot or development site, bounded entirely by streets, or a lot which adjoins the point of intersection of two or more street and in which the interior angle formed by the extensions of the street lines in the direction which they take at their intersections with lot lines other than street lines, forms an angle of 135 degrees or less. In the event that any street line is a curve at its point of intersection with a lot line other than a street line, the tangent to the curve at that point shall be considered the direction of the street line.

LOT COVERAGE - That portion of a lot which, when viewed directly from above, would be covered by a building, or any part of a building, except any area covered by a structure where 50 percent or more of the perimeter of such structure is open from grade.

LOT DEPTH - The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT INTERIOR - A lot or development site other than a corner lot with frontage only on one street.

LOT LINE, FRONT - A property line contiguous with a public street.

LOT LINE, REARS - A lot line which is opposite and most distant from the front lot line. In the case of a triangular shaped lot, the rear lot line for building purposes shall be assumed to be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE - Any lot line which is not a front or rear lot line.

LOT OF RECORD - Shall mean a lot shown as a part of a recorded subdivision, or any parcel of land described by metes and bounds in a recorded deed, record of survey or other appropriate document recorded in the office of the County Recorder; except that no lot or parcel of land created without complying with the provisions of the land subdivision requirements of the State of Oregon and the City Subdivision Ordinance is entitled to the waiver of this Section.

LOT, THROUGH - A lot or development site other than a corner lot with frontage on more than one street. Through lots with frontage on two streets may be referred to as "double-frontage" lots.

LOT WIDTH - The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

MOBILE HOME - A structure commercially transportable in one or more sections which (1) is ten body feet or more in width and is forty-five body feet or more in length, or (2) has at least 800 square feet of floor space, and which is built on a permanent chassis and designed to be used as a dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating and electrical systems.

For the purpose of this definition it shall be immaterial (1) whether said vehicle or structure is placed upon property for a temporary, semipermanent, or permanent use; (2) that wheels may be removed allowing said vehicle or structure to be placed upon posts, footings or a foundation; or (3) whether or not said vehicle or structure meets the structural requirements of the Dunes City Building Ordinance.

MOBILE HOME PARK - Any parcel of land composed of a lot or contiguous lots under the same ownership used, designed or intended to accommodate more than two (2) mobile homes and travel trailers.

MOBILE HOME SITE - Any portion of a mobile home park designated or used for the occupancy of one mobile home.

MODULAR HOME - A prefabricated residence, office or structure that meets the Uniform Building code standards for a given occupancy and is transportable to a building site in distinct modules or units and placed on a permanent foundation.

MOTEL - A combination or group of two or more detached or semi-detached permanent dwellings or dwelling units occupying a building site in one ownership owned and used to furnish transient living accommodations.

NONCONFORMING LOT OF RECORD - A parcel of land which lawfully existed as a lot in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the lot dimension requirements for the zoning district in which it is located.

NONCONFORMING STRUCTURE - A structure or portion thereof, which was lawfully established in compliance with all applicable ordinances and laws, but which, because of the application of a subsequent zoning ordinance (1) no longer conforms to the setback, height, maximum lot coverage, or other building development requirements of this Ordinance; or (2) is clearly designed and intended for uses other than any use permitted in the zoning district in which it is located.

NONCONFORMING USE - Use of a structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinance and laws, but which, because of the application of a subsequent zoning ordinance, no longer conforms to the use requirements for the zoning district in which it is located.

NURSING HOME - Any home, place or institution which operates and maintains facilities providing convalescent or chronic care, or both, for a period exceeding twenty-four hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick.

OTHER USES SIMILAR TO THE ABOVE - Other uses which, in the judgment of the Planning Commission, are similar to and not more objectionable to the general welfare than the uses listed in the same district and are consistent with the purpose and intent of the district and the Dunes City Comprehensive Plan.

ON-PREMISE SIGN - A sign which advertises only the activities conducted on or the sale or lease of the property on which the sign is located.

OUTDOOR ADVERTISING SIGN - A sign which advertises goods, products or services which are not sold, manufactured or distributed on or from the premises on which the sign is located; or facilities not located on the premises on which the sign is located; but the term does not include an "on-premise" sign.

PARKING AREA, AUTOMOBILE - Space within a public parking area or a building, exclusive of driveways, ramps, columns, office and work areas, for the temporary parking or storage of one automobile.

PARKING AREA, PRIVATE - Privately- or publicly-owned property, other than streets and alleys, on which parking spaces are defined, designated or otherwise identified for use by the tenants, employees, or owners of the property for which parking area is required by this Chapter, and which is not open for use by the general public.

PARKING AREA, PUBLIC - Privately- or publicly-owned property, other than streets or alleys, on which parking spaces are defined, designated or otherwise identified for use by the general public, either free or for remuneration. Public parking areas may include parking lots for retail customers, patrons, and/or clients, as required by this Chapter.

PARKING SPACE - A permanently maintained space with proper access for one standard sized automobile.

PLANNING COMMISSION - The Dunes City Planning Commission.

RIDING ACADEMY - Any building or portion of property (1) upon which the skill and subject of horsemanship is taught for remuneration; or (2) made available for hire or remuneration for the teaching or training in the skill and subject of horsemanship. Exercise rings and show rings for riding, breaking, roping, or showmanship, whether enclosed in a building or lot or parcel of land by a man-made barrier for public use and remuneration shall be considered an accessory use of the premises for a riding academy.

SERVICE STATION - Shall mean a place or station selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, body work, steam cleaning, tire recapping and mechanical car washing, which necessitates equipment to wash more than one car at a time.

SHADE - A lot or building is deemed shaded if a structure blocks the direct solar radiation that would otherwise reach its surface during the protected period, excluding such insubstantial shadows as those caused by utility poles, wires, flagpoles, and slender antennas.

SHORELANDS - That area, measured horizontally, from the mean high water line of Woahink Lake; the area, measured horizontally, from the line nine feet above mean sea level on Siltcoos Lake; the area, measured horizontally, of the stream bed of Woahink Creek, and other Class I creeds as defined by the Oregon Forest Practices Act.

SIGN - Any fabricated sign for use outdoors, including its structure, consisting of letter(s), figure, character, mark, point, plane, design, poster, picture, stroke, stripe, line, trademark, reading matter or illuminating device which is constructed, attached, erected, fastened or manufactured in any manner whatsoever to attract the public in any manner for recognized purposes to any place, subject, person firm, corporation, public performance, article, machine or merchandise display. However, the term "sign" shall not include any display of official court or public notices, nor shall it include the flag, emblem or insignia of a nation, governmental unit, school or religious group, except such emblems shall conform to illumination standards set forth in this Ordinance.

SIGN AREA - The entire area within a single, continuous perimeter formed by lines joined at right angles which enclose the extreme limits of such sign, and which in no case passes through or between

any adjacent elements of the same. However, such perimeter shall not include any structural elements lying outside and below the limits of such sign, and not forming an integral part of the display.

SOLAR ACCESS - An unobstructed exposure to available solar radiation during daytime hours for the purpose of allowing solar radiation to be used to meet a portion of a building's energy requirements.

SOLAR ACCESS PLAN - A copy of the final plan which identifies those lots which will possess solar access and new and existing trees which will shade lots.

SOLAR COLLECTOR - The south face of a building which is designed to provide solar space heating, or a device which uses solar energy for generation of electricity or to reduce energy consumption for space or water heating.

SOLAR ENVELOPE - A drawing or representation with contour lines of a three dimensional space over a lot representing height restrictions for trees that protects solar access for a solar collector.

SOLAR SETBACK - The minimum distance that the highest shadow casting point of the structure shall be setback from the northern lot line.

STABLE, PUBLIC - A building in which horses are kept for remuneration or sale.

STORY - That portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling above. (See "Basement")

STREAMS, CLASS I - Means waters which are valuable for domestic use, are important for angling or other recreation and/or used by significant numbers of fish for spawning, rearing or migration routes. Stream flows may be either perennial or intermittent during parts of the year.

STREET - A public thoroughfare, avenue, road, highway, boulevard, parkway, drive, lane, court, cul-de-sac or private easement, approved by the city council and recorded with the City Recorder, providing the roadway for ingress and egress from property abutting thereon.

STRUCTURE - See "Building"

STRUCTURAL ALTERATIONS - See "Alter"

SUNCHART - A photograph showing the positions of the sun during different hours of the day and months of the year, and the southern skyline. The sunchart shall use as coordinates a grid of solar altitude in 10 degree increments and solar azimuth in 15 degree increments.

TOURIST PARK - All Campgrounds, picnic areas, travel trailer parks and all other establishments rented or kept for rent to any person for a charge or fee paid or to be paid for the rental or use of the facilities or offered free in connection with securing the trade or patronage of such person or for indirect benefit to the owner in connection with a related business.

TOWNHOUSE - A building consisting of three or more separate dwelling units with a common roof and common foundation, designed and used exclusively for the occupancy of three or more families living independently of each other, and having housekeeping facilities for each family.

TRAVEL TRAILER - Any portable vehicle or structure which (1) is less than forty-five (45) body feet in overall length at its longest point; or (2) is less than ten (10) body feet in width at its widest point; or (3) has less than 800 square feet of floor space; and (4) is transportable over public highways and designed as a temporary dwelling for travel, vacation and recreation.

TRAVEL TRAILER PARK - Any parcel of land composed of a lot or contiguous lots under the same ownership used, designed or intended to accommodate more than two (2) mobile homes and travel trailers.

TRAVEL TRAILER SITE - Any portion of a travel trailer park designated or used for the occupancy of one travel trailer.

TREE, EXEMPT - A tree that has a height greater than 10 feet at the time of application for a solar access permit.

TREE, NEW - A tree that is planted after the effective date of the solar access permit.

TREE, NON-EXEMPT - A tree that has a height of 10 feet or less at the effective date of the permit.

USE - The purpose for which land or a building is arranged, designed or intended or for which either land or building is or may be occupied or maintained.

VISION CLEARANCE - A triangular area at the street or highway corner of a corner lot, or the alley/street intersection of a lot, the space being defined by a line across the corner, the ends of which are on the street or alley right-of-way lines an equal and specified distance from the corner and containing no planting, walls, structures or temporary or permanent obstruction exceeding three and one-half (3 1/2) feet in height above the curb level.

YARD - An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

YARD, FRONT - A yard between the front line of a building (exclusive of steps) and the front property line.

YARD, REAR - An open, unoccupied space on the same lot with a building, between the rear line of the building (exclusive of steps, porches and accessory buildings) and the rear line of the lot.

YARD, SIDE - An open, unoccupied space on the same lot with a building, between the side wall line of the building and the side line of the lot.

SECTION 12: ENFORCEMENT REQUIREMENTS, VIOLATIONS

- I. Title, Purpose, and Applicability: The provisions of this Section shall be known as the Enforcement Requirements. The purpose of these requirements is to ensure compliance with the zoning requirements. These provisions shall apply to the enforcement of the zoning requirements, but shall not be deemed exclusive.
- II. Official Action: All officials, departments, and employees of Dunes City vested with authority to issue permits, certificates, or licenses, shall adhere to and require conformance with the zoning requirements.
- III. Inspection and Right of entry: Whenever they shall have cause to suspect a violation of any provision of the zoning requirements, or when necessary to investigation of an application for or revocation of any zoning approval under any of the procedures prescribed in this Ordinance, officials responsible for enforcement or administration of this Ordinance, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.
- IV. Abatement: Any use which is established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to the zoning requirements shall be and is hereby declared to be unlawful and a public nuisance, and may be abated as such. Abatement proceedings are to be conducted pursuant to Section II, III, IV, V, and VI of the Nuisance Ordinance, and are attached hereto as Exhibit "A" and incorporated herein by reference as a part of the Ordinance.
- V. Enforcement Official: It shall be the duty of the City Council or duly authorized representative to enforce the provisions of this Ordinance pertaining to land use and to the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City. The enactment of this Ordinance shall not invalidate any prior, existing, or future prosecutions for violation of the zoning requirements committed under previous applicable City Ordinances then in effect.
- VI. Legal Proceedings by City Attorney: In addition to the enforcement provisions of this Ordinance, upon request of the City Council the City Attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this Ordinance.

EXHIBIT A

SECTION II

ABATEMENT PROCEDURE:

- A. Upon a signed written allegation to the City Recorder that a nuisance as defined in this Ordinance exists, the City, except for paragraphs 1a and 1b of Section I, of the Nuisance Ordinance shall cause:
1. An inspection to be performed by a person, or persons designated by the Mayor.
 2. If the inspectors conclude, as a result of their inspection, that a nuisance does in fact exist, they shall so inform the Mayor.
 3. The Mayor will then direct the City Recorder to post upon the property a notice where the nuisance exists, directing the owner and person in charge of the property to abate said nuisance.
- B. At the time of posting, the City Recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner and the person in charge of the property at the last known address of said owner or other person. The notice to abate shall contain:
1. A description of the real property, by street address or otherwise, on which such nuisance exists.
 2. A description of the nuisance.
 3. A direction to abate the nuisance within ten (10) days from the date of the notice.
 4. A statement that unless such nuisance is removed the City may abate the nuisance and the cost of abatement shall be a lien against the property.
 5. A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the City Recorder within ten (10) days of the date on the posted and mailed notice.
- C. Upon the completion of the posting and mailing, the City Recorder shall execute and file a certificate stating the date and place of such mailing and posting.
- D. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or person in charge shall not make the notice void and in such a case the posted notice shall be sufficient.

SECTION III

ABATEMENT BY THE OWNER

- A. Within ten (10) days after the posting and mailing of the notice as provided in Section II, the owner or person in charge of the property shall remove the nuisance, or
- B. Show that no nuisance exists.
- C. If the owner or person in charge protests that no nuisance exists, they shall file with the City Recorder a written statement in which they will specify the basis of so protesting.
- D. The statement shall be referred to the Council as a part of the Council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the Council, as may the person complaining of a nuisance, and other interested parties. The Council shall thereupon determine whether or not a nuisance exists, and such determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where written objection to the notice has been filed as provided.
- E. If the inspection designated in Section II, paragraph 1-a determines that an emergency exists, he shall so notify the Mayor, and the Mayor may at his election call an emergency meeting and cause to be served upon the person in charge and the owner of the property a notice that they must attend this meeting or forfeit their right under Section III, paragraphs two through six. The special meetings shall be conducted pursuant to the abatement proceedings in this Ordinance in all other matters.
- F. If the Council shall determine that a nuisance does in fact exist, the owner or other person shall within five (5) days after such Council meeting and determination abate the nuisance.
 - 1. Council may at its election grant the owner a longer time to abate the nuisance for good and sufficient reason.
 - 2. If the Council determines that an emergency exists, the Council may order the nuisance abated upon a twenty-four (24) hour notice.

SECTION IV

ABATEMENT BY THE CITY

- A. If within the time allowed the nuisance has not been abated by the owner or person in charge of the property, the City may cause the nuisance to be abated.

- B. The City Recorder shall keep an accurate record of the expenses incurred by the City in Abating the nuisance and shall include therein a charge of fifteen percent (15%) for the expenses of administration overhead.

SECTION V

ASSESSMENT OF COSTS

- A. The City Recorder, by registered or certified mail, postage prepaid, shall forward to the owner or the person in charge of the property a notice stating:
1. The total cost of abatement, including the administrative overhead.
 2. The cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice.
 3. The owner or person in charge of the property objects to the cost of abatement as indicated, they may file a written notice of objection with the City Recorder, no more than ten (10) days from the date of the notice.
- B. Upon the expiration of ten(10) days after the date of the notice, the Council in the regular course of business shall hear and determine the objection to the cost to be assessed.
- C. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, the assessment of the cost stated or determined by the Council shall be made by resolution and shall thereupon be entered in the docket of City liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was removed.
- D. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of six percent (6%) per annum. Such interest shall commence to run from the date of the entry of the lien in the lien docket.
- E. An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

SECTION VI

SUMMARY OF ABATEMENT

The procedure provided by this Ordinance is not exclusive but is in addition to the procedure provided by other Ordinances and the City may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

VII. Violations: Violation of any of the requirements of this Ordinance constitutes a City Infraction. Continued violations of this Ordinance after ten (10) days from the mailing of notice of the violation by certified mail to the last known address of the alleged violator, and continued violations after an order has been entered for the same violation, constitute a separate City Infraction for each day the violation continues. The City Council or duly authorized representative shall have the authority to sign Infraction complaints for violations of this Ordinance.

VIII. Fines and Penalties: A person violating a provision of this Ordinance shall, upon conviction, be punished by a fine of not more than \$1,000.00. A person violating a provision of this Ordinance shall be considered guilty of a separate offense for each day during which the violation continues following written notification by the City.

SECTION 13: SOLAR ACCESS PERMIT

I. PURPOSE

The purpose of this section is to allow protection of solar access to a solar collector through the limitation of growth by trees located on neighboring properties.

II. SOLAR ACCESS PERMIT STANDARDS

The decision to approve or deny a permit application will be based upon the following standards:

- A. The solar collector will have at least four hours per day of unobstructed solar access between 9 a.m. and 3 p.m. during the period for which solar access protection is being sought. However, the hours and dates during which the solar collector access is protected shall not exceed that period when the sun is lower than its position at solar noon on January 21 or greater than 55 degrees east or west of true south.
- B. The solar collector will not be shaded by an eight-foot fence located on the south lot line or an existing structure at solar noon on December 21.
- C. There is no reasonable alternative location for the solar collector that will result in fewer restrictions on neighboring lots.
- D. Removing or trimming vegetation on the applicant's lot will not permit an alternative location that would result in fewer restrictions on neighboring lots.
- E. The solar collector shall meet the following minimum performance standards according to the end use of energy to which it is applied: 20 percent of the structure's space heating energy needs, 40 percent of the structure's domestic water heating energy needs, and/or 40 percent of the structure's electricity needs for appliances and lighting, excluding domestic water heating. The solar collector's performance shall be certified by a licensed architect or engineer using simulation techniques or calculation procedures that are generally in use. Documentation that a solar collector qualifies for a tax credit, loan or other solar program offered by a utility, municipal corporation or government agency which employs equivalent standards shall satisfy the requirements of this section.

III. LIMITS ON SOLAR ACCESS PERMITS

A solar access permit shall not affect:

- A. A lot or portion thereof which is located more than 150 feet south of the proposed or existing solar collector.
- B. A lot located on a slope of 15 percent or more and facing within 45 degrees of true north.
- C. An exempted tree.
- D. Any structure or addition located on a neighboring lot.
- E. A lot or portion thereof which lies within an Open Space Overlay Zone.

IV. APPLICATION FOR A SOLAR ACCESS PERMIT

An application for a solar access permit shall include:

- A. A description of how the application satisfies the solar access permit standards.
- B. The hours and months for which solar access is sought.
- C. A scaled drawing of the solar collector, its dimensions, its height above ground level, and its orientation.
- D. A sunchart for the proposed location as seen from the center of the lower edge of the site of the solar collector. If the solar collector is more than 20 feet in length, a sunchart shall also be provided for the southeast and southwest corners of the lower edge of the solar collector.
- E. A site plan showing lot lines and dimensions of the applicant's lot and neighboring lots which will be affected by the solar access collector, the location of structures and trees on the applicant's lot and affected neighboring lots, and the identification of exempt and non-exempt trees.
- F. Evidence that the solar collector will not be shaded by an eight-foot fence located on the applicant's south property line at solar noon on December 21.
- G. Evidence that the solar collector is installed or a written commitment to install the proposed solar collector within one year of the effective date of the permit.

- H. Evidence that there is no reasonable alternative location for the solar collector that would result in fewer restrictions on a neighboring lot including that provided by the trimming or removal of vegetation on the applicant's lot.
- I. A solar envelope for each lot be affected by the proposed solar access permit.

V. PROCEDURE

- A. Review. The building inspector or an agent designated by the governing body shall review the application for completeness and accuracy. If the application is found to be incomplete or inaccurate, the building official or designated agent shall advise the applicant of its deficiencies.
- B. Notice. After an application for a solar access permit has been accepted, the City Recorder shall send notice by certified mail to each property owner to be affected by the proposed solar access permit. The notice shall contain the following information:
 - 1. A copy of the solar access permit which has been accepted by the building official or designated agent.
 - 2. The standards for and limits on a solar access permit;
 - 3. Procedures for objection by any affected property owner including comment deadline.
- C. Objections. If no written objections are filed by affected parties within 30 days following the date that all certified letters are mailed, the City Recorder shall issue the solar access permit. If any affected property owner or representative files a written objection within the specified period, and if the objection is not withdrawn after informal discussions among the objector, City staff, and the applicant, a hearing shall be held before the planning commission.
- D. Permit Hearing. The planning commission shall hold a hearing on a written objection to the granting of a solar access permit.
 - 1. Notice. The City Recorder shall send notice of the hearing to the applicant, the property owner who objected to the permit, and other property owners who would be affected by the proposed permit.

2. Hearing. The objector shall bear the burden of proof that the application is not accurate, that it does not satisfy the solar access permit standards or limitations, or that the estimated loss of value or cost to preserve the solar right to affected owners of neighboring property is greater than the estimated value of solar access to the applicant. The planning commission shall review the application, compare the provided information with the permit standards and limitations, and consider evidence presented by the objector, City staff, and the applicant.
 3. Decision. After the close of the hearings, the planning commission shall state their findings and conclusions and based thereon shall approve, approve with conditions, or deny the application.
- E. Recording. Within 30 days after a solar access permit is granted, the City Recorder shall:
1. File with the county clerk, in such form as required by state law, the permit including any exemptions to or limits on the solar access protected, site plan, sun-chart, and solar envelopes.
 2. Send a certified letter to each property owner affected by the solar access permit that the permit has been granted and recorded and a copy of a solar envelope for his or her lot.
 3. Note the location of the solar collector and affected properties on the official zoning map.

VI. PERMIT ENFORCEMENT

In the event that a non-exempt tree on a neighboring property is shading a solar collector for which a solar access permit has been granted, then the permittee shall take the following actions to protect his or her solar access:

- A. Documentation of Solar Permit Violation. The solar access permittee shall submit the following information to the City Recorder. The building official or designated agent shall review the permittee's complaint for accuracy and completeness.
1. A copy of the solar access permit.
 2. Evidence that the solar collector is still functioning.
 3. A new sunchart documenting that non-exempt or new trees are shading the solar collector during the protected period.

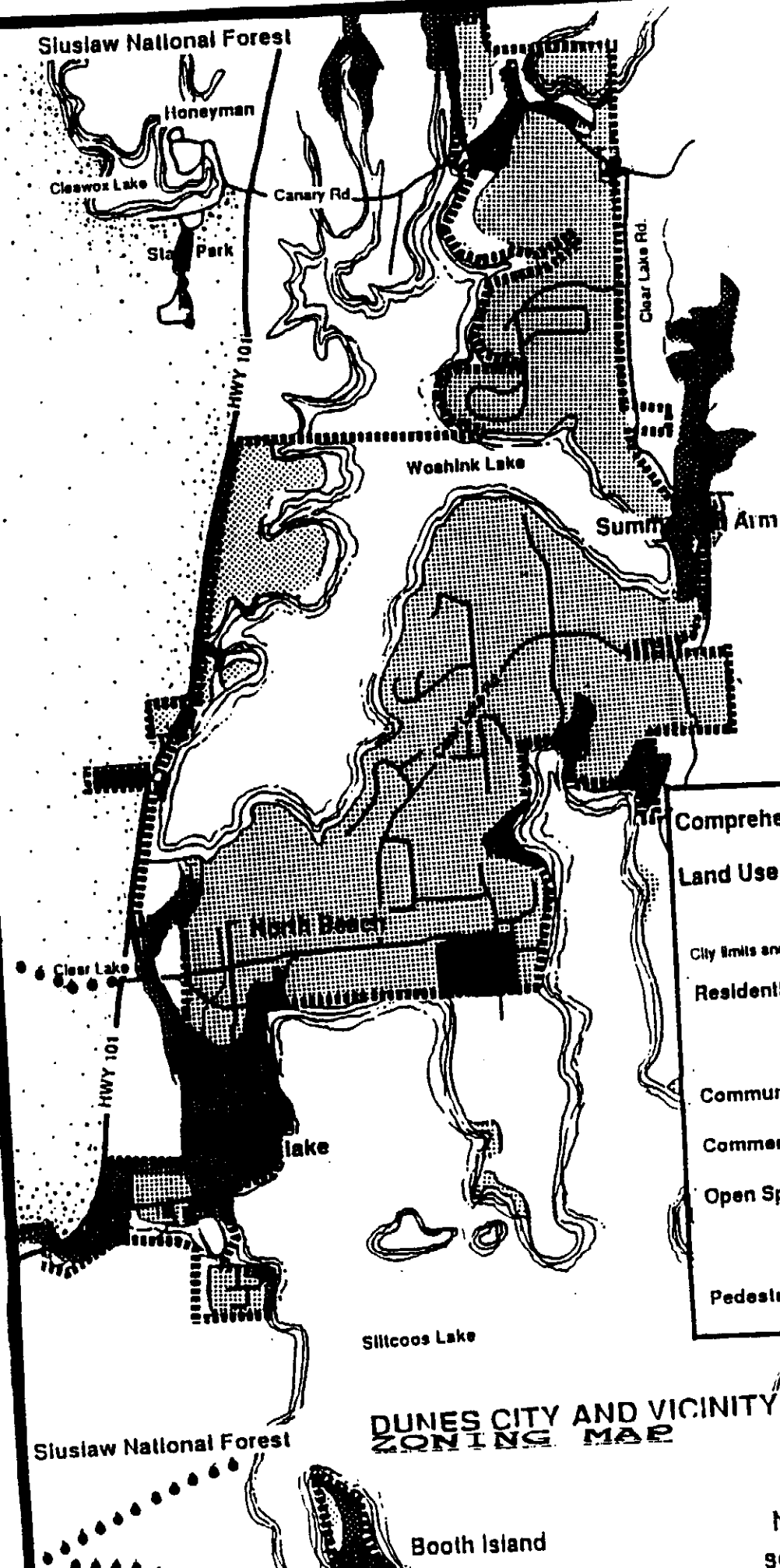
- E. Assignment of Cost. All costs for trimming a non-exempt tree shall be borne by the permittee. All costs for trimming a new tree shall be borne by the tree owner.

VII. TERMINATION

The City Recorder shall revoke the solar access permit if the solar collector does not function for 12 consecutive months or if requested by the permittee or his or her successor in interest. The City Recorder shall send the permittee, the owners of all properties affected by the permit, and the county clerk a Notice of Termination.

VIII. FEES

The City shall set fees as is appropriate to cover costs for permit processing and enforcement.



**Comprehensive
Land Use Diagram**

LEGEND

City limits and Urban Growth Boundary

Residential


Community Commercial

Commercial

Open Space

Pedestrian Trail

**DUNES CITY AND VICINITY:
ZONING MAP**

NORTH 
scale : 1" = 2,400'

LIST OF COMMERCIAL AREAS

TAX LOT LIST OF COMMERCIAL AREAS

19-12-22-1	Tax Lots	800 & 900
19-12-22-4	" "	1000 & 300
19-12-22-3	" "	100 & 200
19-12-27-1	" "	6200 & 6800
19-12-27-4	" "	1300 & 1301 to a line 400' south of county road R.O.W.
19-12-14-2-1	" "	1600, 1700, 1800, 2200 4900, 4800, 4700, 4600 4500, 3600, 5400, 5300 6000.
19-12-34-2-4	" "	1300 & 2000

THESE ARE THE COMMERCIAL PROPERTIES THAT WERE ATTACHED TO ORDINANCE #55 WHICH ADOPTS A ZONING MAP. ORDINANCE #55 WAS ADOPTED MARCH 10, 1979.

Kay Bacon, Secretary
Dunes City Planning Commission

Date

This Ordinance shall take effect on the 30th day after enactment, to wit; on the 12th day of August, 1978.

PASSED BY THE CITY COUNCIL this 13th day of July, 1978.

AYES:

APPROVED BY THE MAYOR THIS 14th
DAY OF JULY, 1978

ATTEST:

/s/ Robert Petersdorf
Mayor

/s/ Pat Barber
City Recorder