

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Ordinance No. )  
 80-201, Redmond Urban Area Zoning )  
 Ordinance of 1980; Making Provision )  
 for the Redmond Urban Area Planning )  
 Commission; Providing for New Admin- )  
 istrative Procedures and Repealing )  
 Inconsistent Provisions; and Declaring )  
 an Emergency )

**FILED**

JAN 2 1981

ROSEMARY PATTERSON  
 DESCHUTES COUNTY CLERK

ORDINANCE NO. 80-228

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,  
 OREGON, ORDAINS as follows:

Section 1. Subsection 1, Terminology, of Section 1.040,  
 Administrative Terminology and Construction, is amended to read as  
 follows:

"1. Terminology. The word "building" includes the  
 word "structure." The term "building site"  
 includes the word "lot" and the word "plot."  
 The word "used" also includes "designated,  
 intended or arranged to be used." The word  
 "erected" also includes "constructed," "recon-  
 structed," "altered," "placed," or "moved."  
 The term "land use" also includes "building  
 use" and "use of building." The term "Compre-  
 hensive Plan" shall mean the Redmond Urban Area  
 Comprehensive Plan. The word "City" shall mean  
 the City of Redmond, Oregon. The word "County"  
 shall mean the County of Deschutes, Oregon. The  
 word "Board" shall mean the Board of County  
 Commissioners of Deschutes County, Oregon. The  
 words "Planning Commission" and "Commission"  
 shall mean the Redmond Urban Area Planning  
 Commission. The words "Planning Director,"  
 "County Engineer," "County Clerk," "County  
 Sanitarian," "County Surveyor," "Hearings Officer,"  
 "Tax Collector," and "Assessor," shall mean the  
 Planning Director, County Engineer, County Clerk,  
 County Sanitarian, County Surveyor, Hearings  
 Officer, Tax Collector and Assessor of Deschutes  
 County, Oregon."

Section 2. Section 1.120, Site Plan Review, is amended  
 to read as set forth in Exhibit A, attached hereto and by this  
 reference incorporated herein.

Section 3. Article XI, Administrative Provisions, is amended to read as set forth in Exhibit B, attached hereto and by this reference incorporated herein.

Section 4. This Ordinance being necessary for the immediate preservation of public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on January 1, 1981.

DATED this 31<sup>ST</sup> day of December, 1980.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

NO  
Chairman

Robert C. Paulson, Jr.  
Commissioner

Chas. L. Lapan  
Commissioner

ATTEST:

Tammy J. Richardson  
TAMMY J. RICHARDSON  
Recording Secretary

## EXHIBIT A

"Section 1.120 SITE PLAN REVIEW.1. Findings and Objectives.

- a. The Board finds that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of structures and signs and the lack of proper attention to site development and landscaping in the business, commercial, industrial and certain residential areas within the Redmond Urban Area hinders the harmonious development of the Redmond Urban Area, impairs the desirability of residence, investment or occupation in the Urban Area, limits the opportunity to attain the optimum use and value of land and improvement, adversely affects the stability and value of property, produces degeneration of property in such areas with attendant deterioration of conditions affecting the peace, health and welfare of the Urban Area, and destroys a proper relationship between the taxable value of property and the cost of services therefor.
- b. The Board declares that the purposes and objectives of site development requirements and the site design review procedure are to:
  - (1) Implement the policies, goals and standards of the Board and the adopted Comprehensive Plan of the Urban Area as now or hereafter constituted;
  - (2) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development;
  - (3) Discourage monotonous, drab, unsightly, dreary and inharmonious development;
  - (4) Conserve the Urban Area's natural beauty and visual character and charm by insuring that structures, signs and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures, signs and other improvements.

- (5) Achieve the beneficial influence of pleasant environments for living and working;
  - (6) Encourage orderly development of a site in a manner compatible with surrounding property;
  - (7) Provide for the orderly development of property in concern with the timely construction or assurance of necessary public facilities and services;
  - (8) Prevent undue traffic congestion and pedestrian hazards;
  - (9) Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement;
  - (10) Stabilize and improve property values and prevent blighted areas; and, thus, increase tax revenues;
  - (11) Minimize costs to the general public of facilities and services necessitated by development by requiring the developing party to bear a reasonable share of those costs when a particular site is developed;
  - (12) Provide for the reasonable development of the City in a manner that will protect the health, safety and general welfare of the public.
2. Design Review Committee. There is hereby established a Design Review Committee whose members, terms, officers and manner of transacting business shall be as follows:
- a. Members: Qualifications. The Committee shall consist of seven (7) members as follows: One member of the Urban Area Planning Commission; two individuals actively engaged in business, commerce, or industry; and four individuals who shall be residents or operate a business in the Redmond Urban Area. If possible, the Committee should contain one individual specially qualified by reason of education, training or experience in the financing of commercial real property and one individual specially qualified by reason of education, training or experience in the area of the arts, or architecture or landscape architect.

- b. Appointment: Term. The members of the Committee shall be appointed by the Board. Whenever possible, the Board shall appoint individuals who are either property owners, residents, or actively engaged in business or employment in the Urban Area. Of the members first appointed, three members shall be appointed for a term of one year and four members for a term of two years. Subsequent appointments shall be for a term of two years, or until successors are appointed. Terms of office shall commence on the first day of the calendar year, except that the terms of office for members first appointed under this Ordinance shall commence on the date of their appointment.
- c. Vacancies; Removal. Any vacancy shall be filled for the remainder of the unexpired term as original appointments are herein provided. The Board may remove any member of the Committee, after hearing, for misconduct or nonperformance of duty.
- d. Officers. The Urban Area Planning Commission member shall serve as Chairman. The Chairman shall be counted to determine a quorum and shall have the same rights as other members of the Committee, including the right to vote. The Chairman shall annually appoint a Vice-Chairman. During the absence, disability or disqualification of the Chairman, the Vice-Chairman shall exercise or perform all the duties and be subject to all the responsibilities of the Chairman. In the absence of Chairman and Vice-Chairman, the remaining members shall select an Acting Chairman. The City or County Planning Director, or his designate, shall serve as Secretary to the Committee, and also in an advisory capacity.
- e. Quorum; Voting. A quorum shall consist of four members. The concurrence of a majority of the members of the Committee present shall be necessary to determine any questions before the Committee. An Abstention shall be considered a negative vote.
- f. Meetings; Records. The Committee shall hold at least one regular meeting each month. However, a meeting need not be held if there are no drawings or plans submitted for review by the Committee. The deliberations and proceedings of the Committee shall be public. The Committee shall keep minutes of its proceedings, and such minutes shall be public records.
- g. Rules. The Committee may adopt and amend rules to govern the conduct of its business, consistent with the provisions of this Ordinance.

3. Jurisdiction and Powers of the Committee.

- a. No building permit shall be issued for a new building or major remodeling of an existing building, and no sign permit shall be issued for the erection or construction of a sign relating to such new buildings or major remodeling, until the plans, drawings, sketches and other documents have been reviewed and approved by the Planning Director or Committee. For purposes of this Section, the term "major remodeling" shall include both of the following activities: Any remodeling that substantially changes the exterior appearance of the building (including painting), and any site improvements that substantially alter the topography or appearance of the site. Any building or structure which is not being developed as part of a larger development, shall be acted on by the Planning Director upon request for a building permit and submission of required documents, and/or such other documents as the Planning Director shall require, and upon approval of the Planning Director, the building permit shall issue. The Planning Director may require any application to be submitted to the Committee for review. Where the Planning Director is authorized to review applications, any provision in this Ordinance written with reference to the Committee shall apply to the actions of the Planning Director.
- (1) Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents approved by the Committee, unless altered with Committee approval. Nothing in this Section shall be construed to prevent the ordinary repair or maintenance of a building or the replacement of landscaping which does not involve a substantial change from the approval granted by the Committee.
  - (2) Proposed changes shall be submitted in writing to the Planning Director for approval. The Planning Director shall grant approval to the proposed change if he determines that the change does not substantially alter the approval previously granted. If the Planning Director determines that the proposed change substantially alters the approval granted, the proposed change shall be processed in the same manner as a new application.
  - (3) If the applicant disagrees with the Planning Director's decision, that decision shall be submitted to the body whose decision is sought to be changed at its next regular meeting for its determination whether the proposed change substantially alters the approval granted by that body.

After a decision by the body, the matter shall be returned to the Planning Director for processing consistent with the body's decision. The applicant may appeal the body's decision in the same manner as any other decision of that body.

- c. (1) The Committee only may authorize variances from the requirements and standards of this Ordinance and the regulations by the County's Sign Ordinance. The request for a variance shall be processed at the same time as the request for site and design approval. A request for variance from the requirements of this Ordinance shall be subject to the substantive requirements of the County Ordinances. A request for variance from the Sign Ordinance requirements shall meet the substantive requirements of that Ordinance.
- (2) Any decision of the Committee which includes the granting of a variance from the requirements of this Ordinance shall be forwarded to the Commission for its review. The decision of the Committee shall appear on the Commission's agenda at the next regularly scheduled meeting after the date of the Committee's decision. The hearing may be de novo or on the record made before the Committee. The Commission may affirm, revise, modify or reject the decision of the Committee. The Commission may also remand the matter back to the Committee for further consideration.

4. Documents Required for Committee Review; Master Plans.

- a. To initiate the site and design review process, the applicant shall submit to the Committee with the required fee, the following documents:
  - (1) The legal description, dimensions, and total area of the site;
  - (2) A site plan, drawn to scale, indicating the subject property, the location of all existing and proposed structures, bikeways, walkways, driveways, public and private streets, landscaped areas, fences, walls, parking and loading spaces, natural features and railroad tracks. The site plan shall indicate all vehicle and pedestrian access points to public rights-of-way and the interior circulation plan for the property. Provision for all utility and public facilities, drainage and on-site water retention facilities are to be indicated. Site analysis data shall be submitted indicating total site square footage and the percentage of the site that is covered by buildings, landscaped area, parking, vehicles drives and pedestrian ways.

- (3) A landscape plan, drawn to scale, showing the location and types of existing trees and vegetation proposed to be removed and to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain plan materials.
  - (4) Architectural drawings or sketches, drawn to scale, and showing all elevations and exterior materials of the proposed structures and other improvements as they will appear on completion of construction.
  - (5) Specifications as to type, color and texture of exterior surfaces of proposed structures.
  - (6) A sign plan drawn to scale, showing the location, size, design, material, color and method of illumination of all exterior signs. At the applicant's option, this plan may be submitted for approval at any time prior to the issuance of occupancy permits.
- b. When the development proposed is for less than the entire site, a master site plan for the entire site shall be required. The applicant shall submit to the Committee the following information:
- (1) All of the above information with regard to the portion of the site to be developed.
  - (2) For the portion of the site to be developed at a later date, all of the information required in the above Section that is known and that is relevant to the purpose of this Subsection. For that information that is not known approximations and concept designs may be used.
  - (3) Any proposed phasing of development shall be indicated on the master site plan.
  - (4) The overall concept and objectives of the total development shall be indicated in writing.
- c. The master site plan requirement is to insure the orderly development of the site in conjunction with the surrounding properties and the availability of public service facilities. Development on a site with an approved master site plan shall take place consistent with that plan. Each phase of development shall be processed as a new application and the Committee, to grant approval, must find that the proposed development is consistent with the approved master site plan.

- d. The master site plan may be amended, upon the request of the original applicant or his successor in interest to the site, by processing the request in the same manner by which an original application is processed. However, when development has occurred in a manner consistent with the location of public service facilities as shown on the master site plan for the site, no amendment to the master site plan may be made that will alter the points of ingress and egress on the site of those facilities or the service capacity of those facilities without the approval in writing of the property owners affected by the change and the Committee.
- e. Alternative master site plans may be required by the Committee to ensure full or maximum lot utilization and efficient arrangement of uses to avoid wasteful use of available urban land and to prevent the possibility of landlocked, undeveloped land on a site.
- f. Special studies, investigations and reports may be required by the Committee to obtain information to ensure that the proposed development of a particular site does not adversely affect the surrounding community, does not create hazardous conditions for persons or improvements on the site, and meets the standards, goals and policies of the Comprehensive Plan. These may include studies, investigations and reports on noise attenuation, air quality, traffic control, soil conditions, flooding of waters and excessive storm water runoff, tree preservation, hours of operation of business and other environmental concerns.

#### 5. Criteria and Standards.

- a. The following standards shall be utilized by the Committee in reviewing the plans, drawings, sketches and other documents. These standards are intended to provide a frame of reference for the applicant in the development of site and building plans, as well as a method of review for the Committee. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The specification of one or more particular architectural styles is not included in these standards.
  - (1) Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

- (2) Relation of Proposed Buildings to Environment: Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.
- (3) Drives, Parking and Circulation: With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of proposed buildings and structures and the neighboring properties.
- (4) Surface Water Drainage: Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system.
- (5) Utility Service: Whenever feasible, electric, telephone and other utility lines shall be underground. Any utility installations remaining above ground shall be located so as to have an harmonious relation to neighboring properties and the site. The proposed method of sanitary sewage disposal from all buildings shall be indicated.
- (6) Advertising Features: The size, location, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties.
- (7) Special Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

(8) Application of Design Standards. The standards of review outlined in (1) through (7) above also apply to all accessory buildings, structures, exterior signs and other site features, however related to the major buildings or structures.

- b. The Committee shall also be guided by the objectives of this Section and such objectives shall serve as additional criteria and standards.
- c. Unless otherwise authorized under this Ordinance, the Committee shall not have the authority to waive or modify the site development requirements of this Ordinance, or the requirements of any other applicable County Ordinance.

6. Procedure.

- a. Submission of Documents. A prospective applicant for a building or other permit who is subject to site design review shall submit to the County Planning Director the documents required herein.
- b. Action by Planning Director. The County Planning Director, or his designate, shall review all drawings, plans and specifications submitted for design review. If the Planning Director finds that they meet all other requirements of the Ordinances of the County, he shall present them to the Committee along with a staff report.
- c. Action by Committee. Within twenty-one (21) days from the date of submission to the County Planning Director, the Committee shall approve, approve with condition, or reject the plans of the applicant, together with such findings of fact supporting the Committee's action as is required by law. Failure of the Committee to so act within the 21-day period shall constitute approval, unless the applicant consents to an extension of time.
- d. Appeals. Appeals shall be governed by the following provisions:
  - (1) A decision of the Committee may be appealed to the Commission by the applicant, or any substantially aggrieved property owner within 200 feet of the outer boundaries of the property involved in the Committee's decision. The appeal shall be filed in writing with the County Planning Director within fifteen (15) days after the Committee has rendered its decision.

- (2) The County Planning Director shall forthwith cause an appeal to be placed on the agenda for the next regularly scheduled Commission meeting. The Commission shall consider the appeal at such meeting and shall affirm, modify and affirm, or reverse the decision of the Committee.
- (3) If a decision of the Committee involves the granting of a variance, the decision shall be referred to the Commission. The Commission shall consider such decision in the same manner that it considers and acts upon appeals from the Committee.
- e. Effective Date of Decisions. A decision of the Committee shall become effective fifteen (15) days after the date of the decision, unless the decision is appealed to the Commission. If the decision of the Committee is appealed to the Commission, the decision of the Commission shall become effective fifteen (15) days after the decision.
- f. Time Limit on Approval. Site design review approvals shall be void after one (1) year unless a building permit has been issued and substantial construction pursuant thereto has taken place.
- g. Preliminary Consideration. An applicant may request preliminary consideration by the Committee of his general plans prior to seeking a building permit. When seeking preliminary consideration, the applicant shall submit a site plan showing the proposed structures, improvements and parking, together with a general description of his plans. The Committee shall approve or reject all or part of the applicant's general plan within the normal time requirements of a formal approval. Preliminary approval shall be deemed to be approval of the final plan to the extent of the preliminary approval."

## EXHIBIT B

## ARTICLE XI. ADMINISTRATIVE PROVISIONS

Section 11.010. FORM OF PETITIONS, APPLICATIONS AND APPEALS. Petitions, applications and appeals provided for in this Ordinance shall be made on forms prescribed by the County. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this Ordinance.

Section 11.020. HEARINGS.

1. Definitions. As used in this Article, the following words and phrases shall mean:

"Applicant." A person, corporation, partnership, or agent applying for a land use permit. The applicant must have legal or equitable interest in all real property for which the land use permit is sought.

"Application for Land Use Permit." A written application on a form provided by the Planning Department requesting zone change, change in the nonconforming use; conditional use, variance, planned unit development, major land partition, subdivision, or amendment to the Comprehensive Plan.

"Board." The Board of County Commissioners of Deschutes County, Oregon.

"Contested Case." Proceeding in which the legal rights, duties or privileges of specific parties, under County land use Ordinances are required to be determined only after a hearing at which specific parties are entitled to appear and be heard. This may include other matter designated as contested cases by order of the governing body.

"Governing Body." The Board of County Commissioners of Deschutes County, Oregon.

"Government Agency." Any municipal corporation, district, authority, political subdivision or agency of the State of Oregon or of the United States, other than the Planning Commission, with which the governing body is required by law to coordinate its land use actions.

"Hearing." A quasi-judicial hearing conducted by the Planning Commission or the Board to determine if a contested land use case shall be granted or denied.

"Hearings Body." The Planning Commission or governing body.

"Land Use Action." Any action involving an application for a land use permit.

"Party." Any person who has standing to be heard under Section 7.

"Permit." Discretionary approval of a proposed use of land, which approval is required by a land use ordinance or Oregon Statute.

"Person." An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative.

"Planning Commission." The Redmond Urban Area Planning Commission.

2. Application of Ordinance. The following shall be conducted in accordance with this Section:
  - a. All land use applications for a quasi-judicial plan amendment, zone change, planned unit development, major land partition, subdivision, conditional use, change in a nonconforming use, and variance.
  - b. All land use contested cases.
  - c. All appeals to the Planning Commission or Board.
3. Applications and Staff Reports.
  - a. Within twenty-five (25) days prior to the date of the initial hearing of an application for a land use permit, the Planning Department shall render a staff report setting forth its findings and recommendations, if any, and setting the time of the initial hearing.
  - b. A copy of the staff report shall be mailed or otherwise delivered to the applicant, to the hearings body, and to persons requesting the same who shall pay a reasonable fee for the costs of the duplication, mailing, and administrative overhead.
  - c. The applicant shall reply in writing to the findings and recommendations set forth in said report, citing exceptions, if any, and the reasons therefor, no later than ten (10) days before the date of the initial hearing.

- d. A copy of the applicant's reply shall be mailed or delivered to the staff and hearings body, and to persons requesting the same who shall pay a reasonable fee for the costs of the duplication, mailing, and administrative overhead.

4. Notice of Hearing.

- a. At least ten (10) days prior to said hearing, written notice shall be sent by mail to the following persons:
  - i. The applicant and his designated representative.
  - ii. All property owners of record, as shown on the official maps of the Deschutes County Tax Assessor, within 250 feet of the property which is the subject of the application. Whenever a larger notification area is provided for by Ordinance, Statute, or regulation, it shall be controlling.
  - iii. Applications for rezonings, subdivisions, and the plan amendments shall require notice to property owners within 250 feet of the subject property.
  - iv. The failure of a property owner to receive mailed notice shall not invalidate any land use actions if a good faith effort was made to give notice required by this Section. The date of mailing shall be considered the date of notice.
  - v. A larger zone of notification may be reasonably required by the Planning Director on a case-by-case basis.
- b. Contents of Notice. All notices prepared pursuant to this Ordinance shall contain:
  - i. The date, time and place of the hearing.
  - ii. A legal description and a facsimile of the Tax Assessor's official map, noting the subject property.
  - iii. The nature of the proposed action.
  - iv. A statement that all parties may appear and be heard.
- c. Published and Posted Notice.
  - i. In addition to notice by mail, notice of a hearing shall be published in a newspaper of general circulation in the City at least ten (10) days prior to the hearing.

- ii. Notice shall also be posted at the Redmond City Hall.
5. Burden of Proof. The burden of proof is upon the applicant.
  6. Nature of Evidence.
    - a. All evidence not objected to may be received unless excluded by the hearings body.
    - b. All evidence offered and received shall be made a part of the record of the case, and, except for the facts which are noticed, no other factual information or evidence shall be considered in the determination of the issue. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
    - c. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence. Other participants permitted to testify or present evidence shall have such rights as are determined by the hearings body.
  7. Standing. The following persons are affected parties and shall be entitled to appear of record either by themselves or through their designated representatives at a hearing:
    - a. All persons entitled to personal notice by mail.
    - b. A community planning organization duly certified by the Board.
    - c. Any person who demonstrates to the hearings body that his legal rights are affected by the outcome of the hearing.
    - d. Any person within reasonably close proximity to the property that is the subject of a hearing who demonstrates to the hearings body that he could sustain economic or aesthetic injury as a result of a proposed land use action.
  8. Determination of Standing. Whenever possible, the matter of the standing of any person shall be determined prior to a hearing before the hearings body. Where a question of standing arises during a hearing, the hearings body may determine the issue of standing at that time or may continue the hearing until the issue of standing is resolved.
  9. Record.
    - a. A verbatim record of the hearing shall be made by written or mechanical means. The hearings body shall keep minutes of its proceedings.

- b. All physical and documentary evidence presented shall be marked to show the identity of the person offering the evidence and whether presented on behalf of the proponent or opponent. Evidence may be received subject to a later ruling as to its admissibility.
  - c. All exhibits received shall be retained by the hearings body until after applicable appeal period has expired. The exhibit shall then be released upon demand to the person identified thereon upon receipt of an acceptable facsimile thereof.
  - d. The Planning Department shall permanently file and retain the verbatim record, and all exhibits and documentary evidence received.
10. Challenge for Bias, Prejudgment or Personal Interest.
- a. Prior to or at the commencement of a hearing, any party may challenge the qualifications of the hearings body or a member thereof for bias, prejudice, or personal interest. The challenge shall be documented with specific reasons supported by facts.
  - b. No member of a hearings body shall participate in a hearing, except under the rule of necessity, if:
    - i. He has a direct or substantial financial interest in the subject of the hearing;
    - ii. He is related to the applicant or opponent in the manner provided for in ORS 227.035;
    - iii. He is in business with the applicant;
    - iv. He cannot be impartial because of prehearing contacts;
    - v. For any other reason he determines affects his impartiality.
  - c. Should the qualifications of the hearings body be challenged, it or the member challenged shall either disqualify itself, withdraw, or make a statement of its capacity to hear, which statement shall be a part of the record.
11. Prohibition of Prehearing Contacts. The hearings body shall not communicate directly or indirectly with any party, as defined in Section 7, or his representative in connection with any material issue involved in a hearing except upon notice and opportunity for all parties to participate.

12. Hearing Procedure.

- a. A hearing shall be conducted in the following order, or in such other manner as may be ordered by the hearings body, so long as the parties are provided a reasonable opportunity to present their cases:
  - i. The hearings body shall explain the purpose of the hearing and announce the order of proceedings, including reasonable time limits on presentations by parties.
  - ii. A statement by the hearings body regarding pre-hearing contacts, bias, prejudice, or personal interest shall be made.
  - iii. Challenges to the hearings body's qualifications to hear the matter shall be stated.
  - iv. Order of presentation:
    - (a) Staff Report.
    - (b) Applicant's proposal.
    - (c) Those in favor.
    - (d) Those in opposition.
    - (e) Applicant's rebuttal.
    - (f) Questions addressed to the chair may be asked after each of the preceding steps.
  - v. Close of hearing and deliberation. The hearings body shall either make its decision and state the findings of fact or continue deliberation to a subsequent date, the time and date of which shall be announced. No additional testimony or evidence shall be taken after closing of the hearing.
  - vi. All decisions shall be based on and include findings of fact and conclusions of law supported by the record.
- b. Objections to Jurisdiction, Procedure, Notice, Qualifications.
  - i. Any objections to lack of jurisdiction, failure to follow procedural requirements, failure to give proper notice, or objections to the qualifications of the hearings body shall be made in writing not later than ten days prior to the date of the hearing, unless such objections arise during the course of the hearing itself. All such objections shall be in writing if possible and shall state in detail the grounds of the objection.
  - ii. When an objection is raised to matters contained in Section 12(B)(1) the objection may be heard in accordance with the procedures of Section VIII of this Article.

- c. Limitation on Oral Presentations. The hearings body may set reasonable time limits for oral presentations. Parties may submit prior to the hearing such relevant and material evidence in writing as is necessary to support their position.
  - d. Oath or Affirmation. The hearings body may place any person submitting testimony under oath or affirmation.
13. Reapplication Limited. If a specific application is denied, no reapplication for substantially the same proposal may be made for six months following the date of the final decision.
14. Review by the Board.
  - a. A review of the Planning Commission's decision may be initiated by the Board.
  - b. The review shall be ordered within 15 days of the date of the final written decision of the Planning Commission.
  - c. A review hearing shall be conducted in the same manner provided for in appeals.
15. Appeal.
  - a. The decision of the Planning Commission shall be final unless a notice of appeal is received by the Planning Director within 15 days following the date of the final written determination by the hearings body.
  - b. Any affected or aggrieved party may file a notice of appeal.
  - c. Notice of Appeal. Every notice of appeal shall contain:
    - i. A statement of the petitioner establishing standing to appeal.
    - ii. A reference to the application sought to be reviewed, including the date of the final decision of the hearings body.
    - iii. The specific grounds relied upon for appeal.
    - iv. A statement showing how the hearings body erred in its decision.
  - d. Notice of Hearing on Appeal.
    - i. Published notice of the hearing and a record of the proceedings on review shall be the same as required for an initial hearing.
    - ii. If the hearing is to be held de novo, notice of such fact shall also be given.

iii. Except as provided by Subsection iv of this Section, the review of the initial hearing shall be confined to the record of the proceeding below, which shall include:

- (a) All materials submitted and considered by the hearings body as evidence;
- (b) The tape recording and the minutes of the hearing, or a transcript of the hearing if requested by the reviewing body;
- (c) A transcript of the hearing if requested and paid for by the appellant;
- (d) The decision of the hearings body and the notice of appeal.

iv. De Novo Review.

- (a) A party may request a de novo hearing by filing a written motion with the Board within 15 days following the date of the final written determination by the Planning Commission as set forth in Section 15. The motion shall state the reasons for the requested de novo hearing, and why the appellant had no prior opportunity to present the evidence sought to be introduced at the de novo hearing.
  - (b) The Board may grant or deny the motion for a de novo hearing. If the motion is granted a hearing date shall be set no sooner than 14 days following the granting of the motion. Notice of the de novo hearing shall be mailed to individuals within the notification area of the original application; shall be published in a newspaper of general circulation in the City of Redmond; and those individuals who have established standing at the time of the initial hearing. All notice shall be mailed or published no later than ten days prior to the de novo hearing date.
  - (c) A de novo hearing shall be conducted in conformance with Section 12.
- e. The Board may affirm, reverse, or amend the action taken at the initial hearing. The matter may be remanded back to the Planning Commission for further review or information.
- f. The Board's decision shall become final on the thirtieth day following the date of the final written determination, unless a rehearing is made pursuant to Section 16.
16. Rehearing by the Board. The Board may hear a matter on its own motion, or upon petition of an affected or aggrieved party, pursuant to this Section.

- a. A motion for rehearing shall be made, if at all, within 14 days after the Board's decision.
- b. At the meeting at which the Board determines to rehear the matter, it shall set the time and place for each rehearing which shall not be later than 21 days from the date of the decision upon first review.
- c. A rehearing may be heard in any manner provided for in the first review, except that all new evidence and testimony introduced at the first review shall also be included in the record.
- d. No action shall be reheard more than once.

Section 11.070. FILING FEES. An application required by this Ordinance shall be accompanied by a filing fee.

Section 11.080. REVOCATION. The Planning Commission or Board may revoke or modify any permit granted under the provisions of this Ordinance on any one or more of the following grounds:

1. A permit may be revoked on the basis of fraud, concealment, or misrepresentation, or on the basis of wrong information given to the Planning Commission or Board at a public hearing.
2. A permit may be revoked on the basis that the use for which such permit was granted is not being exercised within the time limit set forth by the Planning Commission or Board or this Ordinance.
3. A permit may be revoked on the basis that the use for which such permit was granted has ceased to exist or has been suspended for one year or more.
4. A permit may be revoked or modified on the basis that the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval or in violation of any statute, code, resolution, law or regulation.
5. A permit may be revoked or modified on the basis that the use for which the permit was granted was so exercised as to be detrimental to the public health, safety or welfare, or in such a manner as to constitute a nuisance.
6. Any permit granted pursuant to this Ordinance shall become null and void if not exercised within the time period specified in the permit, within one year from the date of approval of said permit.
7. The Planning Commission or Board shall hold a public hearing on any proposed revocation after giving written notice to the permittee and other affected persons as set forth in this Ordinance. The Planning Commission or Board shall render its decision within 45 days after the

conclusion of the hearing. In the case where the permittee is not satisfied with the action of the Planning Commission, he may appeal the decision to the Board in the manner provided in Section 11.020 of this Ordinance.

Section 11.090. MAXIMUM TIME LIMIT ON A PERMIT FOR A CONDITIONAL USE, VARIANCE, OR ZONE CHANGE. Authorization of a conditional use, a variance, or a zone change shall be void after 12 months, or as otherwise set forth in this Ordinance, unless substantial construction has taken place.